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TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1912.

No. 685.

JACOB FROHWERT, PLAINTIFF IN ERROR,

vs.

THE UNITED STATES OF AMERICA.

**IN ERROR TO THE DISTRICT COURT OF THE UNITED STATES FOR
THE WESTERN DISTRICT OF MISSOURI.**

FILED SEPTEMBER 27, 1912.

(28,771)

(26,771)

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a UNITED STATES OF AMERICA, *set*:

To the United States of America, Greeting:

You are hereby cited and admonished to be and appear in the Supreme Court of the United States, at the City of Washington, D. C., 30 days from and after the day this citation bears date, pursuant to a writ of error filed in the Clerk's Office of the District Court of the United States for the Western Division of the Western District of Missouri, wherein Jacob Frohwerk is plaintiff in error, and you are defendant in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error as in said writ of error mentioned should not be corrected, and why speedy justice should not be done the parties in that behalf.

Witness, the Honorable Frank A. Youmans Judge of the District Court of the United States for the Western Division of the Western District of Missouri, this 1st day of July in the year of our Lord one thousand nine hundred eighteen.

FRANK A. YOUNMANS, *Judge*.

[Endorsed:] No. 3530. United States Circuit Court, Western District of Missouri, Western Division. United States of America vs. Jacob Frohwerk. Citation. Filed July 29th, 1918. John B. Warner, Clerk.

UNITED STATES OF AMERICA.

*Western Division of the Western
District of Missouri, set:*

I hereby acknowledge due service of the within Citation this 29th day of July, A. D. 1918.

FRANCIS M. WILSON,
Attorney for Defendant in Error.

b UNITED STATES OF AMERICA, *set*:

The President of the United States of America to the Honorable Judges of the District Court of the United States for the Western Division of the Western District of Missouri, Greeting:

Because, in the records and proceedings, as also in the rendition of the judgment of a plea which is in the said District Court before you, at the April Term, 1918, thereof, between The United States of America and Jacob Frohwerk a manifest error hath happened, to the great damage of the said Jacob Frohwerk as by his complaint appears.

We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties afore-said in

this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the said record and proceedings aforesaid at the City of Washington, D. C., and filed in the office of the Clerk of the United States Circuit Court of Appeals, for the Eighth Circuit, on or before the 29th day of July, 1918, to the end that the record and proceedings aforesaid being inspected, the Supreme Court of the United States may cause further to be done therein to correct that error, what of right, and according to the laws and customs of the United States, should be done.

Witness, The Honorable Edward D. White, Chief Justice of the Supreme Court of the United States, and the seal of said District Court.

Issued at office in Kansas City, this 29th day of June, in the year of our Lord one thousand nine hundred eighteen.

[Seal of the United States District Court, Western Division,
Western District of Missouri.]

JOHN B. WARNER, *Clerk*,

By ———, *D. C.*

Allowed by

FRANK A. YOUNG,

U. S. District Judge.

[Endorsed:] No. 3530. United States District Court, Western District of Missouri, Western Division. United States of America vs. Jacob Frohwerk. Writ of Error. Filed June 29th, 1918. John B. Warner, Clerk.

UNITED STATES OF AMERICA,

Western Division of the Western

District of Missouri, set:

In obedience to the command of the within Writ, I herewith transmit to the Supreme Court of the United States, a duly certified transcript of the record and proceedings in the within entitled case, and with all things concerning the same.

In witness whereof, I hereunto subscribe my name and affix the seal of said District Court of the United States for the Western Division of the Western District of Missouri.

Issued at office in Kansas City, this 9th day of September, A. D. 1918.

[Seal of the United States District Court, Western Division,
Western District of Missouri.]

JOHN B. WARNER, *Clerk*,

By ———, *D. C.*

1 UNITED STATES OF AMERICA, *vs.*:

Be it remembered, that heretofore, to-wit, at the regular April term of the United States District Court for the Western Division of the Western District of Missouri, and on the 23rd day of April, 1918, the following entry appears of record, to-wit:

Now come the Grand Jurors and make presentment as follows:

3530.

UNITED STATES

VS.

CARL GLEESER and JACOB FROHWERK.

Vio. Espionage Act.

A True Bill.

J. M. HALL, *Foreman*.

Said Indictment, filed April 23rd., 1918, is in words and figures as follows, to-wit:

2 UNITED STATES OF AMERICA,

Western Division,

Western District of Missouri, vs.:

In the District Court of the United States for the Western Division of the Western District of Missouri, April Term, 1918

The Grand Jurors of the United States of America, duly and legally chosen, selected, drawn and summoned from the body of the Western Division of the Western District of Missouri, and duly and legally examined, impaneled, sworn and charged to inquire of and concerning crimes against the United States of America in the Western Division of the Western District of Missouri, on their oaths present and charge that at all times mentioned in this indictment the United States of America was at war with and against the Imperial German Government; and that on or about the 22nd day of June, A. D. 1917, and from and after said date up until the 14th day of December, A. D. 1917, one Carl Gleeser and one Jacob Frohwerk were engaged in the preparation, publication, distribution and circulation of a certain newspaper in the city of Kansas City, in Jackson County, Missouri, and in the Western Division of the Western District of Missouri, which said newspaper was known, designated and entitled "Missouri Staats Zeitung," and was then and there by said Carl Gleeser and Jacob Frohwerk so prepared, published, distributed and circulated weekly, that is, once each week, during the period of time aforesaid; and that said newspaper during the period

of time aforesaid was generally circulated throughout the city of Kansas City aforesaid, and throughout the said State of Missouri; and throughout other parts of the United States of America; and that they, the said Carl Gleeser and Jacob Frohwerk, so being engaged in the preparation, publication, distribution and circulation of said newspaper did, on or about the 22nd day of June, A. D. 1917, at Kansas City, in Jackson County, Missouri, and within the Western

3 Division of the Western District of Missouri, and within the jurisdiction of this court unlawfully, wilfully and feloniously conspire, confederate and agree together and with divers other persons to the Grand Jurors unknown, to commit an offense against the United States of America, that is to say, to violate Section 3 of Title 1 of the Act of Congress approved June 15, A. D. 1917, entitled: "An Act to punish acts of interference with the foreign relations, the neutrality, and the foreign commerce of the United States, to punish espionage, and better to enforce the criminal laws of the United States and for other purposes," by wilfully causing and attempting to cause insubordination, disloyalty, mutiny and refusal of duty in the military and naval forces of the United States and to commit an offense against the United States of America, that is to say, to violate Section 3 of Title 1 of the Act aforesaid, by wilfully obstructing the recruiting and enlistment service of the United States to the injury of the said service and to the injury of the United States, when and while the United States of America was at war with the Imperial German Government, as aforesaid.

And that thereafter and pursuant to the unlawful and felonious conspiracy, confederation and agreement together, aforesaid, and to effect the object thereof, aforesaid, they, the said Carl Gleeser and Jacob Frohwerk, did unlawfully, wilfully and feloniously on or about the 6th day of July, A. D. 1917, at Kansas City, within the Western Division of the Western District of Missouri, and within the jurisdiction of this court, prepare, print, publish, distribute and circulate, and cause to be prepared, printed, published, distributed and circulated in and by means of and as a part of the newspaper aforesaid known, designated and entitled "Missouri Staats-Zeitung" and in the issue thereof bearing date Kansas City, Mo. 6, Juli, 1917, certain reports, statements, communications and alleged news items, in words and figures as follows, to-wit:

4 "Come Let Us Reason Together."

"We can not possibly believe it to be the intention of our administration to continue the sending of American boys to the blood-soaked trenches of France. We can not believe that the General Staff has advised such a step which must be put down by every thinking man as a monumental and inexcusable mistake.

It comes no doubt from the great trusts, through their syndicate press, who see only the prospect of big money for themselves.

Come friends, let us consider the proposition for a moment. It is but right that every citizen should fully realize what we are up against.

Omitting all references as to who is to blame for the war, the fact must be admitted that all the great nations of Europe had been preparing for years feverishly for this great slaughter.

August 1914 found Germany and Austria-Hungary simultaneously attacked from East and West by the mighty and splendidly equipped armies of France and Russia, re-enforced by Serbia and Belgium while England's fleet cut them off on the sea from the outside world. Since that time Russia alone has mobilized over 15 million men and lost in dead, wounded and prisoners over 8 million men. Yet notwithstanding this tremendous sacrifice of men and material, and with the further advantage of having to cross only an imaginary line, no treacherous ocean, three thousand miles wide, which divides us from our enemy, that mighty steam roller not only failed to crush Germany and Austria, but was itself completely demolished. As a result Russia is today in the throes of a bloody internal revolution and for years to come has been effectually eliminated from any further, successful participation in the conflict. It's hors de combat.

On the other hand France, and later on joined by the million armies of Italy and England, have not been able to dislodge the German invaders to any appreciable extent from their territory.

Now we are told, personal bravery and heroism does not count in this war, it is a game of science of the highest order.

This being so, we should apply some of it to ourselves. In other words, let common sense and reason govern our action instead of blind passion and fanaticism.

Common sense must tell every man, that when the Entente powers could not defeat the Central powers with their mighty armies, we can not do so with a line of communication to maintain over three thousand miles long and subjected to an attack from the German U-boats against which no successful weapon has yet been found.

We are told we have to take the place of Russia in this war. We have to do more than that, we have to replace practically France too, for we are told that in her armies boys, fourteen years old, are serving today. This is the best evidence to what dire straits the man-power of France has been reduced. England has exhausted the man-power of Canada, Australia and her other colonies. Herself, she remains true to her sacred traditions of saving her own men, of whom something like two million trained men are still in England.

Why is it not England sending them over to France instead of us? Her line of communication is the hundredst part of what we will have to guard and she has a far greater fleet than we have to do this work.

It is conceded, that it will be a year before we can land an army of a million men in France. They can be sent over only in small bodies for lack of sufficient tonnage to carry them. We ask, of what possible effective strength can they be in France. Why it's a drop in the bucket, and to do so appears to be outright murder without serving anything practical.

These are strong words, we admit, but we would not be true to our allegiance and our love to this country, if we did not utter these words of warning to the American people. Neither would we be

true to this Republic if we did not tell of the unconquerable spirit and undiminished strength contained in the German nation.

We have been born of that nation, we know its feelings, 5 we have read its papers, and know therefore whereof we speak.

Germany, let it be understood, considers herself attacked and is imbued with that thought to the last man. She will fight to the last drop of blood, and it is this feeling, that amounts almost to a religious faith, which is the key to the marvelous strength with which she has withstood all the attacks of her enemies, although far outnumbered in men and resources.

Our American neighbors and friends are entitled to this information. Not to utter it would be treason to this—now our country.

This feeling of duty to America prompts us in warning and in protesting against the sending of troops to France even at the danger of being misunderstood.

We feel, our American friends agree with us in regretting the necessity of a war with Germany—with any country for that matter.

Having become involved, should it not be our duty to see to it, that the result should be as little disastrous to ourselves as possible?

Germany has not as yet recognized in any way our declaration of war.

We are being told that unless we fight now on the fields of France, the Allies will be overpowered and Germany will collect her war indemnities from us. If this is the reason for our sending troops over to France, we submit as a wiser course, that every American soldier be kept at home against the time when Germany shall attempt to do her collecting from us. To attack us here at home, she would be at as great disadvantage as we are now in attacking her. Both propositions are equally preposterous and impossible."

Independence, Mo., July 3, 1917.

Editor Staats-Zeitung: "Controversy among friends who are seeking to prevent the terrible sacrifice of life in the European war should be avoided. But the excellent extract from Mr. Hannis Taylor and the justly high standing of that gentleman calls for a correction of an error. He is right in saying that our military force consists only of a regular army, which can be recruited only by voluntary enlistment (and of course volunteer in time of war) and the State Militia. These last, as he says, are to supplement the regular army in three events—to enforce the law, suppress insurrection and repel invasion. This wise military system—the only one where liberty will not be destroyed by military force—was intended to prevent in the words of the Federalist: "Both the excuse and the necessity for a large army, dangerous to liberty." It was also intended to make foreign war of aggression impossible, because the last was considered as repugnant to Republican government and in the language of Jefferson: "Suited only to government founded upon the reverse idea of military force."

This military system has been completely destroyed by the present administration, and we have gone to the reverse system, rejected by the founders and the Constitution.

But Mr. Taylor seems to think the present force is a part *to* the militia. It is not. Our state militia has been destroyed, though it is declared by the Constitution: "A well regulated militia is necessary to the security of a free state." (2 Ann.) This security has been destroyed upon the demands of Mr. Wilson.

The present force is a part of the regular army raised illegally. And this I feel confident will be so decided if I can ever get a case in the Supreme Court.

Mr. Taylor also says: "No part of the regular army shall be sent abroad except by the Mandate of Congress." Now I say, and the debates in the Convention will bear me out, that there is no power in our government, Congress or the President to send an Army into a foreign country except it becomes necessary to do so as a part of a defensive war.

The debates in the Convention bear this out when the words "Congress shall have power to make war" were stricken out and the words "declare war" substituted.

6 But what is the use to talk about the Constitution? We have laid that aside and have a one man government. The question is no longer what does the Constitution say, but what does Mr. Wilson want."

JOSEPH D. SHEWALTER.

That thereafter and pursuant to the unlawful and felonious conspiracy, confederation and agreement together, aforesaid, and to effect the objects thereof, aforesaid, they the said Carl Gleeser and Jacob Frohwerk, did unlawfully, wilfully and feloniously on or about the 20th day of July A. D. 1917, at Kansas City, within the Western Division of the Western District of Missouri, and within the jurisdiction of this court, prepare, print, publish, distribute and circulate, and cause to be prepared, printed, published, distributed and circulated in and by means of and as a part of the newspaper aforesaid designated and entitled "Missouri Staats-Zeitung," and in the issue thereof bearing date "Kansas City, Mo., 20 Juli, 1917," certain reports, statements, communications, articles and alleged news items, in words and figures as follows, to-wit:

"We are deeply indebted to Dr. Elliott, professor of international law at the University of California and a brother-in-law of President Wilson for having clearly diagnosed the present political situation of the United States.

At a lecture in Berkeley, Calif., the professor stated that the Monroe Doctrine is and should be in the discard, that we must forsake our isolation and have our finger in the pie, so to speak everywhere.

This is exactly as the Staats-Zeitung has sized up the situation and it is precisely upon the wisdom of this change in our policy that we differ with Mr. Wilson.

To state the case plainly: We have thrown the advice of George Washington "to maintain friendly relations with all and entangling alliances with none" to the winds. We have abandoned the Monroe Doctrine and embarked upon a new and untried policy, that of

acquiring a World influence and World empire. In short an "imperialistic policy."

This than is bringing out the real issue concerned in this war free from all such pretenses as fighting for democracy, against the Kaiser, because Germany sunk our ships, etc.

Mr. Elliott tells us, the Monroe Doctrine is in the discard. This explanation clears up a great many positions maintained by Mr. Wilson during the war which in the light of American history seemed unexplainable. For instance, it explains why we respected the English blockade and opposed the German blockade, for as Mr. Elliott puts it: "We must associate with all those states which share our ideals of self government, for a democracy in being a government by the people is the safest guarantee for peace." Since the Monroe Doctrine is in the discard we presume therefore the association with such states as Mr. Elliott enumerates is too an accomplished

fact, that it was so at the beginning of the war in 1914. It too substantiates Mr. Wilson's expression on May 12 that we have no grievances of our own to fight for.

This policy, let it be clearly understood, *it* not to be decided upon, but is an accomplished fact. We might here make observation how such a change could take place without the express commend of the people, if such expressions as this being a government of the people still holds good. We might too with perfect propriety ask who authorized the President to carry into effect a change of such transcendent importance. All of this would be idle at this time and a waste of time. It would lead us nowhere.

What we are interested in at this time is the question: How has the change worked out so far. Let us see. We are by reason of having abandoned the Monroe Doctrine and as a direct result already involved in a bloody war.

Our legislative branch of the government has already appropriated sums of money to carry on the war that staggers the imagination of all mankind. Moreover our nation is in the throes of internal strife, riots, race wars, etc. For who dares deny that these things are not the result of this change in our policy? Had we remained true to the teachings of our patriotic fathers of the Republic, we would have lived as happy as ever, even though the storm was raging over two other continents.

But we had changed from their ways and instead of remaining neutral as they had under like circumstances, the horrible monster "greed" made us coin money out of the blood of our brethren in other nations. We have unchained this monster and bidden him to our shores, we have welcomed him to our hearthstones and what else can ye now expect, but to be ruled by him?

Truly has it been said: "what shall it profit a man to conquer the whole world and lose his own soul."

And now look further. Suppose we come through it all unscathed and gain what we set out for. England has given the world an example as to what the policy results in. Although it owns one third almost of the known world, only a very few of its 45 million people are rich, and one third of its population lives in abject poverty and almost in literal slavery. This result is as in-

evitable to us as it is to England! Already we have future generations, children yet unborn, mortgaged with an appalling debt. And don't we know, that it is not the rich, but the middle classes and the poor upon which the burden of taxation falls the heaviest? And we are now only at the beginning of it all and have not even included in these calculations the rivers of human blood it will cost.

The Monroe Doctrine is in the discard, that is at present. There is no manner of remedy for it. But next election, a little over a year from now, the question will then be squarely up to every American elector, whether or not it shall remain in the discard."

That thereafter and pursuant to the unlawful and felonious conspiracy, confederation and agreement together, aforesaid, and to effect the object thereof, aforesaid, they the said Carl Gleeser and Jacob Frohwerk, did unlawfully, wilfully and feloniously on or about the 3rd day of August A. D. 1917, at Kansas City, within the Western Division of the Western District of Missouri, and within the jurisdiction of this court, prepare, print, publish, distribute and circulate, and cause to be prepared, printed, published, distributed and circulated in and by means of and as a part of the newspaper aforesaid, designated and entitled "Missouri Staats-Zeitung," and in the issue thereof bearing date "Kansas City, Mo. 3, August, 1917," certain reports, statements, communications, articles and alleged news items, in words and figures as follows, to-wit:

"Lansing on War Issues."

"Nothing in recent days has stirred the nation so deeply as has the speech of our Secretary of State Robert Lansing last Sunday at Madison Barracks, N. Y.

Almost during the entire week the question as to the real issues involved in our war with Germany had been under discussion in the U. S. Senate. During these memorable debates Senator Borah made this statement:

"We have our Allies and with them a common purpose, but America is still America, with her own institutions, her individuality in moral and intellectual conception of her own people; she is still a sun and not a satellite. Sir, if our own institutions are not at stake, if the security of our own country is not involved, if we as a people and as a Nation are not fighting for our own rights, and the honor and lives of our own people, our declaration of war was a bold and impudent betrayal of a whole people and in its further continuance a conspiracy against every home in the land."

It was to this challenge and to many others like it, that Mr. Lansing in his speech was to give the answer. What was the answer? Reading every line of that speech over and over again, we fail to find one words or syllable where even only one of the many elements, mentioned by Senator Borah, are involved. Aside from many inuendos and suppositions there is not one solitary direct assertion of American institutions threatened, American lives involved, or American honor at stake.

The nearest Mr. Lansing comes to mentioning any direct cause for war is in these words:

"The immediate cause of our war with Germany—the breaking of her promises as to indiscriminate submarine warfare—has a far deeper meaning, a meaning which has been growing more evident as the war has progressed and which needed but this act of perfidy to bring it home to all thinking Americans."

Truth compels us to say, that the above statement of the Secretary of State has been repeatedly denounced as a "deliberate falsehood" upon the floor of both houses of Congress.

There was no such a perfidy as Mr. Lansing charges here and no one knows this better than does Mr. Lansing himself.

The promise of Germany, let it be here repeated, was conditioned upon our own administration prevailing upon England to give up what Mr. Wilson designated as "an illegal and insufferable blockade." Germany expressly stated in her note, and we dare Mr. Lansing to deny it, that she would be forced to a return to the ruthless submarine warfare unless Great Britain would cease her illegal blockade.

Mr. Lansing says:

"Imagine Germany victor in Europe because the United States remained neutral. Who then, think you, would be the next victim of those who are seeking to be masters of the whole earth? Would not this country with its enormous wealth arouse the cupidity of an impoverished though triumphant Germany? Would not this democracy be the only obstacle between the autocratic rulers of Germany and their supreme ambition? Do you think that they would withhold their hands from so rich a prize?

Great God! If we remained neutral? What sort of an audience could it have been that Mr. Lansing dared tell such a palpable untruth?

9 Almost with the firing of the first gun in the European war we have outraged every sense of morality, decency and violated every provision of international law by furnishing bombs, shot and powder to one of the belligerents.

This action of our administration is the direct cause of this war, but Mr. Lansing dares not tell the truth to the American people. Why does Mr. Lansing ask this question?

"Let me then ask you, would it be easier or wiser for this country, single-handed, to resist a German empire, flushed with victory and with great armies and navies at its command, than to unite with the brave enemies of that empire in ending now and for all time this menace to our future?"

Germany has existed some two thousand years before and has been flushed with victory in many a wars. Now we ask Mr. Lansing, did Germany in all the time of our national existence ever exhibit the slightest designs upon us or for that matter upon any other country? On the contrary, has not Germany been our only consistent friend of all the other belligerents?

The Secretary of State can not name one good and sufficient reason upon which to base his assertion. It is made out of whole cloth.

It is more. It is pressed out of a guilty conscience for having violated our neutrality and furnished ammunition and money to the enemies of Germany.

When Mr. Wilson, upon the request of our big financial interests, but against his better and often expressed knowledge of neutrality laws, consented that these laws be deliberately violated; he believed what he was told, that Germany would speedily be crushed. This expectation has not been realized. The principle of law invoked by us in the Civil War against Great Britain for breach of neutrality would have served as precedent to bring us before the bars of Justice at the close of the war and would have made us as liable for damages inflicted as it did England then.

Patriotic American citizens pleaded in vain with the administration and with Mr. Wilson personally against this breach. The *Staats-Zeitung* was one of the most ardent and persistent to point out this great wrong and the consequent danger such a policy must eventually bring to our nation. For our efforts in behalf of the honor and the security of our Republic we were called traitors by Mr. Wilson.

That a few men and corporations might amass unprecedented fortunes, we sold our honor, our very soul. We sowed to the winds and are reaping now the whirlwind. This, Mr. Lansing knows is the true state of affairs, that is the reason we are at war now. We challenge contradiction!

Ever since the wrong step has been taken, our statesmen have floundered in a lot of excuses for the war. Mr. McAdoo has told us, we are fighting because we love the German people. Mr. Lane said: "It is a war against Mohammedanism," and only Mr. Wilson has been open enough to admit: "We have no grievances of our own." That is true.

We have gone to war to cover up this awful blunder of our administration and to protect the loans of Wall Street to the Allies with the blood of our American boys and the sacrifices and sufferings of the American people.

This is the sad but true story of it.

Let us trust and pray, that Senator Stone's prediction about this being the greatest blunder yet, shall not come true."

Macon, Mo., July 26, 1917.

Carl Gleeser, Kansas City, Mo.

MY DEAR SIR: Enclosed please find \$1.00 to renew my subscription. I wouldn't be without it for ten times the subscription. I just returned from Hot Springs, Ark., where I was for the last month. I sent Nos. 35 and 36 of the *Staats-Zeitung* to the commanding officer of Military and Navy Hospital at Hot Springs who has forwarded them to the Adjutant General of the U. S. Army. If you can spare me Nos. 35 and 36 and 37, I wish you would send them to me as I am keeping a complete file.

Respectfully,

CHAS. P. HESS.

From every principal capital of the belligerents have come a discussion of some sort of peace terms in recent days. A comprehensive summary of these discussions presents this situation. The German Chancellor, Dr. Michealis, stated in his maiden speech before the Reichstag, that the Central Powers are at any time ready to enter into negotiations for peace. Germany, however, can not renew its offer of November, 1916. Such a proposition must come from the other side.

Acting upon this, Senator Lewis, spokesman in the Senate for the administration, on Monday, July 23, urged upon his colleagues the advisability of the United States prevailing upon all belligerents to enter upon such negotiations. The Senator very correctly pointed out, that the United States was in a better position to undertake this work than perhaps other belligerents.

Paris, in its discussion, urged on by England makes such demands upon Germany as are wholly unwarranted by the military situation and London of course, sides with France in its discussion.

We are thus confronted with these facts: That but for England and France, the terrible war could be brought to a very quick termination.

Keeping this in mind, let us at this time recall the statement made a short while ago by Ex President La Folliers of France. He said: France can easily overcome the effects of a lost war. Not so England. Even a drawn war means defeat to England and an end to her world domination. With her prestige of being unconquerable destroyed, not only the colonial empire collapses, but with it her financial system.

A peace on even terms means ruin to her, for her creditors would wipe their slates clean and she would have then as many enemies as she now has allies. Not one of them loves England, they feared her and this fear once destroyed, would destroy England."

What are the historical facts about the war?

The war was started by the money power of Great Britain to crush Germany which had become a dangerous competitor.

What are the results after three years of war? Briefly stated: Russia out for good, will soon permit the release of tremendous armies to crush Italy, drive the Allies out of Greece and England out of Mesopotamia. The German lines in France, so American officers tell us, are impregnable and can be held indefinitely.

The German submarines will have sunk the English merchants fleet, including what is being built now by February, 1919.

English money power has lost its war against Germany.

Having no grievances of our own to fight for, the question now squarely before the American people is, how far we are willing to sink our fortunes and spend the best blood of the nation to hold off the complete collapse of the English money power.

We do not fail to give full recognition of the tremendous power wielded in this war by our own financial interests through a corrupt press and other channels, and which to all purposes and intents is now allied with that of England. Neither do we fail to realize, that notwithstanding all our boasts of democracy, our public officials are

in the last analysis but pawns of this tremendous, invisible power of Wall Street.

But we are not pessimistic enough to have lost all our faith in popular government, when the people are once aroused to the dangers threatening them.

But even were we willing to spend our last dollar and give up our last boy, can we help England from disaster?

11 In the short space of three years we have seen three of the mighty nations of Europe going down in defeat and now crumbling to pieces.

We have absolutely nothing they did not have when they went into the fight. In fact they had the advantages of a mighty fleet which we have not, they had two splendidly equipped armies and fought at their very own doorstep while we must travel 3,000 miles. Their armies were reinforced by those of Italy in the South and all without avail.

Does not the answer come to us, re-echoing through the last three years of undescribable horror and suffering, from the battlefields of Europe—that there has already been an overabundance of human lives and misery sacrificed to the Moloch of gold? We say therefore: Cease firing.

That thereafter and pursuant to the unlawful and felonious conspiracy, confederation and agreement together, aforesaid, and to effect the object thereof, aforesaid, they, the said Carl Gleeser and Jacob Frohwerk, did unlawfully, wilfully and feloniously on or about the 10th day of August, A. D. 1917, at Kansas City, within the Western Division of the Western District of Missouri, and within the jurisdiction of this court, prepare, print, publish, distribute and circulate, and cause to be prepared, printed, published, distributed, and circulated in and by means of and as a part of the newspaper aforesaid, designated and entitled "Missouri Staats-Zeitung," and in the issue thereof bearing date Kansas City, Mo. 10, "August 1917," certain reports, statements, communications, articles and alleged news items, in words and figures, as follows, to-wit:

"With every citizen who believes in law and order, the Staats-Zeitung deeply deplores the draft riots in Oklahoma and elsewhere. Of course we fully agree with those who feel, that the passing of the draft law is a violation of the Constitution. But until properly constituted Courts of the land say so, the law may be criticized, but it must be obeyed.

As a matter of fact, violence and armed resistance are a wrong in itself and while we believe the draft law wrong, two wrongs never yet have made a right.

Happily, in our country we have every agency provided for us by the framers of the Constitution to right a wrong without having to take recourse to force.

In the draft law, as well as in all others, if we feel aggrieved, we have the courts to which we may go for protection. Should these fail us, we have then the right to petition Congress to repeal the law and should we again fail here, than we can ourselves right the wrong at the next election.

But we shall admit right here and now, that this is all very well and good for those of us to talk who are past the draft age or who have no boys of our own to be drafted. But how does the other fellow feel about it who finds himself subject to the law? Can we comprehend the workings of his mind and heart?

12 Here he is, called upon to leave his wife and children or his aged parents, or to give up the boy upon which he expected to bestow the fruits of his life work and lean upon in the days to come.

Here he is, with the look of anguish and of pleading for help and relief in the eyes of his wife, staring him in the face day after day. She is sorrowing and pleading for her husband, the father of her children or their son. The courts are perhaps far away and if not, he has not the means to ask protection from them. Is not this enough to drive any man to distraction?

And he perhaps further contemplates, that his country is really not in danger, and that he or his boy are to be sent into a foreign land to fight in a cause of which neither he nor any one else knows anything of. And perhaps the suspicion works itself into a conviction, that it is but a war to protect some rich men's money.

We ask who then will arise and pronounce a verdict of guilty over such a man if he stops reasoning and follows the first impulse of nature: "Self-preservation?"

If this country is in danger of invasion, no man will find him a slacker or coward refusing to do his full duty, but what possible interest has he in making the world safe for democracy or getting rid of the Kaiser or the Czar or King George or any one else?

Is it not natural to reason thus and while technically he is wrong in his resistance, is he not being more sinned against than he himself has sinned?

Mr. Wilson has said: "We really have no grievance of our own to fight for."

Is not then before God and before man the guilt of those who voted without good and sufficient cause upon these men and women, upon the American people, this awful and unnatural sacrifice far greater than the wrong perpetrated by these who now seek to escape the sacrifice by ill advised resistance?

We emphatically reiterate, that we do not endorse their action in any manner, but we would not be human if we could withhold from them our heartfelt sympathy in their tribulation.

A Simple-Sum in Simple-Numbers.

According to the Kansas City Journal of July 28th the expenses inflicted on the people in this "War for Democracy" in Europe and slavery in that part of the British empire known as the U. S. A. is 48 millions per day.

Now "gentle reader" if we are running in debt 48 millions a day, how much are we throwing into this whirlpool of destruction,—this slaughter pen every hour? Answer, 2 millions. If we are spending 2 millions every hour how much are we spending every 30 minutes?

Answer, one million. If we are spending one million every 30 minutes how much are we spending every minute? Answer, \$333,333.

When we bought into this bankrupt concern, as a part of the consideration we assumed and agreed to pay all the liabilities of the institution. We felt of the people and found a small fraction of American sentiment remaining, so we hit them with only 3 billions. They winced but kept silent. Then came 4 billions more. Terror was imprinted on every countenance but no outcry for the land was full of Janizaries. Then the pile in the center of the table began to increase. Now in round numbers it is 18 billions which is only a penny ante as compared to what will follow. But let us stick a pin here and see how we stand. The assessed value of all the property in Kansas—that is the entire state is valued at 3 billions. Now if we divide 18 billions by 3 billions the quotient is 6. Hence we have put into the concern 6 full grown states each of the value of Kansas.

I verily believe that if we get China, all North and South America, including the convicts and savage tribes of these and all other countries and throw in the Fiji Islands and the Cannibals of Africa, we can make the galled jades cince. Germany is only a small province, only three-fourths as large as Texas and if we can organize such an alliance as the one suggested and carry on the war for three years, she will pull down her colors. But in that event I shall pray to all the gods at once that they prohibit us from inflicting on them our kind of democracy. That is ours and we have no right to give it away and especially to those "Barbarous Huns."

Witness my hand as Larned, Kansas this 6 day of August 1917.

C. POLK CLINE.

Lloyd George in his speech last Saturday said: "War is ghastly business, but it is not so bad as peace."

Well as far as we are concerned, we have no complaint to make in that regard. Germany has never done us any harm, in fact was the best friend we ever had.

If Germany maintained a big army, we take it that her neighbors on the East and West of her compelled her to keep pace with them.

But than that is nothing to us compared, for instance, to the English naval program of building two ships for her nearest competitors one.

Why was it necessary for England to adhere to this program?

Big armies in Europe do not frighten us. We know they can not march across the Atlantic. What we are interested in and will have to keep an eye on, is the naval program of any country, particular- England. We had quite a touch of her crushing power when she compelled us to forego our legitimate trade with other belligerents and neutrals since the war started.

Why were we asked to "buy a bale of cotton" in the fall of 1914?

Because English naval power held our commercial trade in the hollow of her hand by reason of her overwhelming naval power. She hauled down our flag, dumped our mail in the ocean, took our

ships into her harbors, in fact acted just about as she pleased with us—and forced us into the war to pay her bills to boot.

Americans should open their eyes and learn to understand, that it is the autocracy of England we should really be fighting instead of autocracies elsewhere.

That thereafter and pursuant to the unlawful and felonious conspiracy, confederation and agreement together, aforesaid, and to effect the object thereof, aforesaid, they the said Carl Gleeser and Jacob Frohwerk, did unlawfully, wilfully and feloniously on or about the 17th day of August A. D. 1917, at Kansas City, within the Western Division of the Western District of Missouri, and within the jurisdiction of this court, prepare, print, publish, distribute and circulate, and cause to be prepared, printed, published, distributed and circulated in and by means of and as a part of the newspaper aforesaid, designated and entitled "Missouri Staats-Zeitung,"

14 and in the issue thereof bearing date "Kansas City, Mo., 17 August, 1917," certain reports, statements, communications, articles and alleged news items, in words and figures as follows, to-wit:

"Government contracts are profitable; goods you manufacture are Now Wanted by the government."

This information appears in letters sent out by the U. S. Legal Corporation from the Bond Bldg., Washington, D. C.

Profitable indeed and paid for out of the sweat and blood of the American people.

That's why we are in the war.

"Loyalty to governments is a noble quality when the government strives for the peace and happiness of its people, but when rulers scheme to use them for their own aggrandizement loyalty serves to perpetuate wrong."

The Pittsburg Kansan makes the above remark in upbraiding the Germans for standing by the Kaiser. Now Will not the Kansan explain why its expression is not applicable to our own situation?

That thereafter and pursuant to the unlawful and felonious conspiracy, confederation and agreement together, aforesaid, and to effect the object thereof, aforesaid, they the said Carl Gleeser and Jacob Frohwerk, did unlawfully, wilfully and feloniously on or about the 24th day of August A. D. 1917, at Kansas City, and within the jurisdiction of this court, prepare, print, publish, distribute and circulate, and cause to be prepared, printed, published, distributed and circulated in and by means of and as a part of the newspaper aforesaid, designated and entitled "Missouri Staats-Zeitung," and in the issue thereof bearing date "Kansas City, Mo., 24 August, 1917," certain reports, statements, communications, articles and alleged news items, in words and figures as follows, to-wit:

Macon G. A. R. in Ringing War Resolutions.

(Published by Request.)

Headquarters F. A. Jones Post No. 23, G. A. R., Macon, Mo., May 5,
1917.*Resolutions.*

15 Whereas the Congress of the U. S. A. has declared war against Germany it is our duty as loyal American citizens to support our Government as patriotic citizens should do. Therefore Resolved:

1st. That in our opinion the law of conscription can only be applied as a law of self preservation, and so long as our Country is in no danger to be destroyed, the law to conscript men to do Military duty is premature, for the patriotism and love of Country ought and should bring a sufficient number of volunteers into the ranks of our Military for all purposes.

2nd. That in our opinion it is highly improper to send troops to Europe to fight for any cause, imaginary or otherwise.

3rd. That in our opinion the participation of our beloved Country in the existing unholy war of the world has only the tendency to prolong that war and not to terminate it.

4th. We are utterly opposed to ask and fight for the freedom of the seas, to supply food stuff to a certain nationality only, but that we are in favor of the freedom of the seas to all Nations and kindreds on earth and treat them all alike without fear or favor, and that we are not in favor to starve our own people, women and children, in order to supply food for any of the warring nations.

5th. That we sincerely deprecate the false and lying reports of the public press that the Germans, or any other nation has been, or are about to attack our Country, and pledge ourselves, that if any Nation or people will ever attack our country,—The United States of America,—that we, and our children will defend our Country and be ready and willing to sacrifice our lives in defense thereof. As true Americans of the day we stand as fearlessly in opposition to all oppressors of this Nation as our forefathers stood in 1776.

Lest we forget we call your attention to our declaration of independence.

CHARLES P. HESS, *Commander.*

That thereafter and pursuant to the unlawful and felonious conspiracy, confederation and agreement together, aforesaid, and to effect the object thereof, aforesaid, they the said Carl Gleaser and Jacob Frohwerk, did unlawfully, wilfully and feloniously on or about the 31st day of August A. D. 1917, at Kansas City, within the Western Division of the Western District of Missouri, and within the jurisdiction of this court, prepare, print, publish, distribute and

circulate, and cause to be prepared, printed, published, distributed and circulated in and by means of and as a part of the newspaper aforesaid, designated and entitled "Missouri Staats-Zeitung," and in the issue thereof bearing date "Kansas City, Mo. 31, August, 1917," certain reports, statements, communications, articles and alleged news items, in words and figures as follows, to-wit:

16 We have hardly started with the building of an American

Merchants fleet and already the British are reaching out their greedy hands for it. The Inter-Allied Chartering Committee of London has made the impertinent request upon the Federal Shipping Board, to place all American merchant ships, including those who are yet to be built, under its control.

In discussing the matter, several papers, (The Northcliff press, of course, suppresses all information upon the question) express the hope that they will not be done.

Vain hope indeed.

After we had built the Panama canal for 400 million dollars, Mr. Wilson solemnly promised to maintain the advantages secured thereby to American ships using the ditch. How did he keep his promise? His first official act was to personally appear before Congress and request, on behalf of England, a repeal of the law exempting American ships from any toll, thereby placing English ships on an equality with our own, although the canal had not cost them a cent.

The sooner the public wakes up to the fact, that we are led and ruled by England, the better.

Then and only then will they understand why our sons are to be slaughtered in France, and why we have thrown the Monroe doctrine into the scrap pile, and embarked upon a world's policy.

A world's policy, not for our own benefit, but to help England in holding and in extending her world dominion.

Then and only then, when this situation is once thoroughly comprehended by the American people, when they once realize, that their sons, their taxes and their sacrifices are only in the interest of England, will a return to a really sovereign and independent America be possible.

That thereafter and pursuant to the unlawful and felonious conspiracy, confederation and agreement together, aforesaid, and to effect the object thereof, aforesaid, they the said Carl Gleeson and Jacob Frohwerk, did unlawfully, wilfully and feloniously on or about the 21st day of September A. D. 1917, at Kansas City, within the Western Division of the Western District of Missouri, and within the jurisdiction of this court, prepare, print, publish, distribute and circulate, and cause to be prepared, printed, published, distributed and circulated in and by means of and as a part of the newspaper aforesaid, designated and entitled "Missouri Staats-Zeitung," and in the issue thereof bearing date "Kansas City, Mo. 21, September, 1917," certain reports, statements, communications, articles and alleged news items, in words and figures as follows, to-wit:

Dr. William T. Fitzsimmons of this city is not the first name on the casualty list of the American army in France, as Mr. Roosevelt puts it in a local evening paper. The records in Washington

17 show that the first name on this list is that of a young soldier from New York city of German parentage by the name of Burghardt.

Nevertheless we grieve as sincerely and as deeply with this community over the loss of the doctor as we do over the loss of young Burghardt and his widowed mother in far-off New York.

God knows the Staats Zeitung has done everything within its power to spare these two mothers their terrible bereavement.

It is inconceivable to the human mind how a nation like ours, removed from the terrible holocaust in Europe by three thousand miles of water, could possibly become involved in that awful carnage, when nations like Switzerland and Holland, situated in the very midst of the conflagration, have managed to keep out. It stands to reason that if, under the terrible stress of warfare, there did occur violations of international laws and infringements of neutral rights they certainly would have happened more frequently, more annoyingly and with greater persistency close to the battle lines than thousands of miles away.

Surely we had far better opportunities to keep away from the danger than had these two nations just mentioned. But we have forsaken the counsel and the ways of our revolutionary fathers, thrown the Monroe doctrine on the scrap pile and entered upon a world policy.

The two young men whose untimely death we now mourn, are the first sacrifices we are bringing this new venture into untried spheres. Hundreds, thousands, yes even millions of just such promising young lives may follow—will undoubtedly follow—unless the death of Burghardt and Fitzsimmons arouses in the national conscience the query: "Is it worth the price?"

That thereafter and pursuant to the unlawful and felonious conspiracy, confederation and agreement together, aforesaid, and to effect the object thereof, aforesaid, they the said Carl Glesser and Jacob Frohwerk, did unlawfully, wilfully and feloniously on or about the 28th day of September A. D. 1917, at Kansas City, within the Western Division of the Western District of Missouri, and within the jurisdiction of this court, prepare, print, publish, distribute and circulate, and cause to be prepared, printed, published, distributed and circulated in and by means of and as a part of the newspaper aforesaid, designated and entitled "Missouri Staats-Zeitung," and in the issue thereof bearing date "Kansas City, Mo., 28 September, 1917," certain reports, statements, communications, articles and alleged news items, in words and figures as follows, to-wit:

France insists that it will agree to no ending of the war unless the German provinces of Alsace and Lorraine are ceded to France, and England proposes to deprive Germany of all her colonies in Africa. In order that they may remain in undisputed possession of this booty German militarism is to be destroyed in addition, and for this high purpose of the war America is being militarized and we are being chided because we are not enthusing at the prospect.

18 Of course, it was highly praiseworthy for Lord Northcliffe and other Englishmen to spend many hundred of thousands

dollars in this country to drag us into the war on the side of the Allies, but it certainly is looked upon as a heinous crime for Count Bernstoff to have expended a few thousand dollars for the purpose of maintaining peaceful relations between Germany and the United States, judging by the condemnation voiced forth against him in the majority of the big English dailies in the cities. Where are we at, anyway?

That thereafter and pursuant to the unlawful and felonious conspiracy, confederation and agreement together, foresaid, and to effect the object thereof, aforesaid, they the said Carl Gleeser and Jacob Frohwerk, did unlawfully, wilfully and feloniously on or about the 5th day of October A. D. 1917, at Kansas City, within the Western Division of the Western District of Missouri, and within the jurisdiction of this court, prepare, print, publish, distribute and circulate, and cause to be prepared, printed, published, distributed and circulated in and by means of and as a part of the newspaper aforesaid, designated and entitled "Missouri Staats-Zeitung", and in the issue thereof bearing date "Kansas City Mo. 5 October, 1917", certain reports, statements, communications, articles and alleged news items, in words and figures as follows, to-wit:

The Truth in a Nutshell.

By Joseph D. Shewalter.

It is an unfortunate trait in men that those questions which by their importance, call most urgently for calm deliberation, excite those passions which make calm deliberation impossible. And as Republics are composed of an aggregation of men the defects of the individual are intensified in multitudes. It is to this trait we must look for the failure of Republics, and that men have been doomed to live under despotism.

There is another trait. Those mentally unbalanced, take up intense hatred to their best and dearest friends. It is so in Republics. For instance today the England press and the Syndicate owned press in the United States are eloquent in the denunciation of George III. (born in England as was his father but whom they tell us was a German), and all of his supporters.

The patriots of that day, they tell us, were Pitt, Camden, Rockingham, Fox, Burke and all the Whig leaders. Yet they were denounced at that time as rebels and traitors, and the same class who now denounce them, now denounce the very men who uphold their principles.

I would like to appeal to the common sense and patriotism of the American people.

Israel received a form of civil government from heaven. 19 They were happy and prosperous. At last, through sin and their own conduct, they brought misfortune upon themselves. They blindly refused to trace these to their true cause, and correct their own conduct and errors. They attributed their troubles to their Constitution and form of Government.

Does not every one know this is our precise condition? They asked Samuel for a king that they might become like other nations. Samuel protested. I expect he was called a "rebel" "traitor" and other endearing names by the idiots of that day.

He told them that under a king, "like other nations" he would take their "young men for war," and take their substance for the same purpose. That under these oppressions they would finally cry out, "and the Lord will not hear you in that day." The voices of those who plead for the old order, the old Constitution, and the old liberty, was drowned by the voice of the multitude.

I ask earnestly, if the history of Israel is not our present history?

What has this war already cost us? It has cost us the Constitution and our liberty. It is to cost us at the start a million and a half of our young men "taken for war". Of our substance it is to take the first year thirty billions of dollars. How much money is that? It would stagger the imagination, if even the imagination could grasp it. It is in a few words, a sum which exceeds all the amounts paid out by the United States for all purposes of war and peace, from July 4, 1776, to the commencement of Mr. Wilson's first term. All the expenses of a hundred and thirty seven years, is now crowded into one. Taft, we were told, was extravagant, yet the expenses of this one year would pay sixty years of Taft's extravagant administration.

But what are these European nations fighting for? Does any one know? Perhaps they are, as said by Jefferson, "but nations of eternal war." But, if sanity prevails, I think, I can tell what it is all about.

England has become the commercial nation of the world. Her commerce commanded the sea. All our exports and imports were carried in her vessels. Our industries were confined to agriculture, to mining, and to manufacturing. The two first were taxed for the direct benefit of the last. Out of this system directly grew those monsters known as trusts. Under the tariff of 1817 and 1857 our carrying trade, sprang into existence, and became the greatest in the world, surpassing England. Had not the civil war come, war would have come with England over this very question, as it has come over it between England and Germany three years ago. But the civil war, and the great protective tariff, which has since prevailed, completely destroyed our carrying trade.

We talk about our rights on the sea, we have no commercial vessels on the sea. We built a canal, but we have no vessels to pass through it except vessels of war, and coasting vessels.

In 1871 under Bismark, the German Confederation was formed. It was the most enlightened free'st and best government in Europe, except Switzerland, which must always to excepted from all comparisons. This fact as to the government of Germany is notorious, and is proved in detail by Prof. Woodrow Wilson's works.

Whatever we may think of Germany, at present, her people are among the most intelligent and energetic in the world. Where this is the case, under free institutions, the people must be prosperous, and they present that happy condition, where wealth is diffused

among the people. Conditions are proved by this further fact that this little Confederation is defending its country from invasion, as no other people has ever defended its native land. Whatever we believe in the United States, or made to believe, through the suppression of truth and the printing of falsehoods, the German people themselves, believe they are defending their homes and their

20 liberties.

Germany determined to reach out and become a rival of England for the sea trade. England determined to have no rival, as she has determined for centuries past. To that end she alone, of the European nations rejected the rules of "International law" known as "the great American Doctrine" as laid down by Jefferson. In their place she laid down certain rules, called "Orders in Council" and rules of her prize court. These rejected the rights of every other nation, and made them subservient to her.

England easily engaged France because of old animosities. She easily controlled Russia; yet in passing I will say she never spoke a word in behalf of the down-trodden people, when a word from her would have abolished Siberia and Russian despotism.

And so war came in order to suppress and conquer Germany, and to prevent her from becoming a rival on the sea. God knows this is the truth and history will record it.

And all this loss of lives and the grinding taxes on the American people are to perpetuate the sea monopoly of England—which has never had a rival, except by the United States for about ten years before the civil war.

Well how did the United States get into it? These great trusts had controlled one political party completely, and it sought and captured the other completely in 1912. Bryan did it, intentionally or unintentionally, at Baltimore; and these interests made Roosevelt run to complete the victory in the general election.

War came in Europe, and for the first time in our history (with one exception) the wealth of these great trusts was turned to supplying the armies of the Allies with all they needed. The administration did all it could to facilitate this illegal and contraband trade, on both land and sea. Mr. Taft says: "We observed strict neutrality."

He thus admits that such a thing as "Neutrality" exists in law. But if certain nations—England and France—can raise armies, and are belligerents; and a third nation, can supply everything to equip, maintain and make effective these armies and is yet a "neutral", then no such thing as neutrality exists, or can exist, in reason or law.

And finally these great interests demanded war for three reasons:

First: The Allies were exhausted financially and were unable to buy and pay for more munition.

Second: They were uneasy about the debts owed them, and wished the United States to advance the money to these foreign nations to pay for the munition they had already bought.

Third: They wished an enormous debt created, which would be owed to them and grind the people down for hundreds of years.

They wanted a great creditor class to own and collect the substance of the toilers.

This made a large standing army both profitable and necessary. This last has come, and in my opinion, the Empire is enthroned.

They say the Constitution is suspended for war. The empire is than enthroned for the war at least, and where did an empire once enthroned, ever voluntarily relinquish its power?

21 That thereafter and pursuant to the unlawful and felonious conspiracy, confederation and agreement together, aforesaid, and to effect the object thereof, aforesaid, they the said Carl Gleeser and Jacob Frohwerk, did unlawfully, wilfully and feloniously on or about the 30th day of November, A. D. 1917, at Kansas City and within the Western Division of the Western District of Missouri, and within the jurisdiction of this court, prepare, print, publish, distribute and circulate, and cause to be prepared, printed, published, distributed and circulated in and by means of and as a part of the newspaper aforesaid, designated and entitled "Missouri Staats-Zeitung," and in the issue thereof bearing date "Kansas City Mo. 30, November, 1917," certain reports, statements, communications, articles and alleged news items, in words and figures as follows, to-wit:

The next move will be on our part, that is on the part of the Allies. Remember, we must give answer, not only to the Central Powers but to Russia as well. That great though badly disorganized nation we find on the side of the Central Powers now. It is with this condition our statesmen will have to reckon. The situation has already changed and it will require the utmost mental keenness and discrete planning on the part of our diplomats to secure for us an honorable peace.

German staff officers are now reported to be in Petersburg.

22 That thereafter and pursuant to the unlawful and felonious conspiracy, confederation and agreement together, aforesaid, and to effect the object thereof, aforesaid, they the said Carl Gleeser and Jacob Frohwerk, did unlawfully, wilfully and feloniously on or about the 7th day of December, A. D. 1917, at Kansas City, within the Western Division of the Western District of Missouri, and within the jurisdiction of this court, prepare, print, publish, distribute and circulate, and cause to be prepared, printed, published, distributed and circulated in and by means of and as a part of the newspaper aforesaid, designated and entitled "Missouri Staats-Zeitung," and in the issue thereof bearing date "Kansas City Mo. 7, December, 1917," certain reports, statements, communications, articles and alleged news items, in words and figures as follows, to-wit:

23 Mr. Wilson's message may be joyfully received in England, France and Italy. But after the average American has read through the labyrinth of high sounding sentences he comes to the conclusion that they contain not a word of either cheer or hope to him. For almost nine long months now he has borne great sacrifices for this war. He has given his boys, complied with the request for a meatless and wheatless day each week, subscribed twice to a liberty loan, contributed to the Red Cross, and numerous other funds, and

worst of all, he has seen day by day the cost of living going up and almost getting beyond his reach.

He felt that it was due him to be remembered for all this in the President's message, his sacrifices recognized and some hope held out to him as to how the future of his beloved nation would be bettered and enriched by his efforts, and how soon he might expect it to be all over so he might resume the peaceful tenor of his ways.

Instead of finding all this set forth in a clear, concise and to him understandable manner, he reads in the message this:

"We are in fact fighting for their (the Germans') emancipation from fear, along with our own, from the fear as well as from the fact of unjust attack by neighbors or rivals or schemers after world empire."

As far as the American is concerned this language is absolutely beyond his comprehension. What concern should it be to him to emancipate the Germans, whom he is supposed to be fighting, from any fear? Who can say when that thing the President calls "fear" has been subdued and the emancipation accomplished? As to emancipating, the American from any such fear, the President speaks of, why there is not an American citizen who knows of harboring such a fear. Upon this score Mr. Wilson's mind can be quickly set at rest. The American people feel absolutely and positively no fear of the United States ever being conquered by any power aspiring towards world's empire.

The message shows, that while he declines to again discuss the causes of our war, he goes into great detail regarding the great wrongs committed by Germany against other nations, matters already under discussion for the last three years. And the American is again forced to ask, what concerns are these wrongs to the United States? We certainly can not be expected to go about the world fighting to right all the wrongs that are being done. And how do we know they are wrongs? Mr. Wilson may think they are, and other people may differ with him quite decidedly upon that question, the same as they do differ with him regarding as to who is to blame for the European war. He thinks Germany dominates Austria; many others and just as well informed people, think England dominates France, Italy, and up to a few weeks ago, Russia. Who is right?

But what does all of this concern us as Americans? Let them have their feuds, fights and wars over there for all any Americans should care about. What we are concerned in is the question, when will our grievances with Germany be considered righted and when can the American people expect peace? To this question Mr. Wilson has given no answer in his message—but instead—has urged that the war be extended to Austria-Hungary, for no other reason than that it is an ally of Germany. We therefore repeat, his message may bring cheer to England, France and Italy. It brings none to the American people.

William Bross Lloyd, one of the owners of the Chicago Tribune, from his office in the Tribune Building, issued an open letter to Clarence Darrow, a copy of which he sent to the Chicago Examiner, with the request that it be published.

It was issued on the occasion of the announcement that Mr. Darrow would speak at Medinah Temple on the subject "Why We Are At War."

24 The letter bears Mr. Lloyd's signature. Upon its receipt a representative of the Examiner called Mr. Lloyd by telephone and asked him if he had written it and if he desired that it be printed. He said he had written it and he did want *in* printed.

The letter in full follows:

"Mr. Clarence S. Darrow, 140 North Dearborn Street, City.

DEAR SIR: I see you are to speak tonight on "Why We Are at War." Possibly you can do me a service.

"I am bitterly against this war.

I think our entrance into it was the most mon-trous treachery to the people of the United States that has ever happened. I don't care at all about hindering the conduct of this war. I want to stop it here and now, immediately if not sooner.

"I feel as I do because I feel we were plunged into it, betrayed into it by officials knowingly acting against the people's will; because I feel our going to war to be absolutely of no benefit to the people of the United States; because I feel, on the contrary, that it is and will be of vital detriment to every interest of the people.

"I very clearly differentiate between patriotism to the people of the United States and patriotism to big business and the administration of the United States government which has served and is serving its interests. And yet it is a very bitter thing to me not to be able to climb on the band wagon and listen to the lovely siren music of our so-called patriotism. Possibly you can help me see the light.

"In my stand I feel I am representing the interests of the working class, and in a country where wealth is so concentrated as ours, that is the same as the people. In a country where, as your friend, Frank Walsh, shows, nine out of ten working men get less than \$20 per week, where 70 per cent get less than \$15, where half the working women get less than \$6, the workers are the people.

"Now discarding all altruistic crusading idealism (i. e., not attending to our business but making the world safe for democracy) and moral platitudes and honorable pretenses, tell me how in any concrete way the life and living conditions of nine people out of ten will be bettered during the war or after it.

"Will their wages be higher, will their wages buy more; will they be better clothed, housed, fed, educated; will they have more and better recreations? Will employment be more secure, their livelihood more certain? Will they be freer of the haunting specter of unemployment, incapacity due to age, disease or accident, the worry that kills and crazes?

"Will they have a better chance to live, to love, to rear a family—in short, to do the simple, fundamental things that really make up life and make it worth while living?

"Of course, I realize that if the Kaiser conquers this country they will lose the chance to vote for a President who kept us out of war

only to plunge us in without any consultation of the people. But if we are conquered wouldn't the Kaiser do that for us just as well? Also we lose a lot of rights like the right to throw ashes or garbage in our alleys and to *to* a lot of unhygienic things like that. But wouldn't that be better for us? Tell me and be specific and concrete.

Maybe you can convince me.

25 "It has been reported to me that you have said: 'When the war is over I will be back in the radical movement.' Yes? One of my greatest sources of amusement lately has been the spectacle of a Tolstoyan non-resistant shouting for war and a philosophic anarchist supporting a government that wages it. These are times of stress that show what men really are.

"I want to repeat to you what a prominent Socialist said to the United States district attorney of the district in which he lived: You will want to live in — after the war is over. Don't forget to live and act during the war so that you can live here after it.

Yours very truly,

"WILLIAM BROSS LLOYD."

War Reports.

This has been a rather eventful week in the world's history. The most important, no doubt, is the completion of an armistice between Russia and the Central Powers, and probably the entering upon peace negotiations. The Russian government remains in the hands of the Bolsheviks. It is reported that German and Austrian war prisoners in Russia will be released in a few days. Russia seems to be on the verge of absolute dissolution. Siberia wants a separate government, with the capital at Omsk. Next in order is Crimea, with the seat of power at Sebastopol. Then follows Ukrainia with the capital at Kiev. Fourth is Kuban in Caucasus, and fifth, Finland with Helsingfors.

On Friday, the 28th of November, began in Paris a meeting of all the allied powers. Russia was represented and so were the United States by Col. House. It is significant, however, that the United States representative withdrew early from the gathering. This may substantiate those stories which emanated from Washington to the effect that Col. House had definite instructions from President Wilson to inform the Allies that unless they could agree upon united action, the United States would withdraw from the conflict. It is very likely that Col. House delivered this message and immediately withdrew from the meeting. His non-participation in the deliberations may on the other hand have been for the reason that we do not stand pledged to refrain from entering upon a separate peace.

On Saturday the German Reichskanzler, Dr. Count Von Hertling, informed the Reichstag that Germany was ready to enter upon negotiations for peace with Russia. Regarding Poland, Lithuania and Kurland, he said "We shall respect their right for self determination." He then recounted the achievements of the armies of the Central Powers which, he claims, have been successful in almost every undertaking. Our enemies, Count Hertling continued, pre-

tend to fight against German militarism which, so they say, is destructive to the world's peace. Why, he asked, did the Italian premier, Sonnino, in his speech on August 28, brush aside the idea of a general disarmament as puerile. Clemenceau of France plainly stated it to be the object of the Allies, even after the close of the war, to exclude the Central Powers from any communication with other nations. Lloyd George had officially declared the war aim of the Allies to be the destruction of Germany's commerce, and that the war must be continued until this goal had been reached. In fact, the deception of Germany being the destroyer of the world's peace, said the Court, has now been completely unmasked and shown up by the secret correspondence found in Petersburg and now being published by the Russian government.

26 The Central Powers are carrying on a defensive war, as they have from the very beginning. They have succeeded in keeping the enemies from the soil of the fatherland and will do so in the future. The Central Powers are not responsible for the continuation of the war, and will insist upon the consequence of the butchery and destruction of property being borne by those responsible for it—the Allies.

A new war credit of 15 million marks was voted without opposition.

At the West front around Cambrai there have been strong German attacks made, which it is admitted, have pierced the British lines at at least several points. The meager reports coming to us from there would indicate that all is not as well as it might be. American soldiers, too, are reported to have been among the more than six thousand British troops captured. It is also reported that a great many British guns have been captured. It is not clear whether or not the Germans only attempt to drive General Haig back from the territory recently captured or whether a serious attempt is contemplated to break through the British lines and repeat the tactics so successfully carried out at the Isonzo front against Italy. Not much news is available from the Piave front.

Lord Lansdown has created a great stir in England through the publication of a letter in which he openly advocates the entering upon peace negotiations on the part of the Allies. English diplomats say this may force England to enter upon negotiations upon the basis of a defeated nation.

With Russia determined for peace England cannot long delay entertaining Lord Lansdowne's proposal.

Contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America.

27

Second Count.

And the Grand Jurors, aforesaid, chosen, selected, drawn, summoned, examined, impaneled, sworn and charged as aforesaid, upon their oaths do further present and charge that on the Sixth day of July, A. D. 1917, and for a long period of time prior thereto, and for a long period of time subsequent thereto, the United States of

America was at war with the Imperial German Government; that on or about the Sixth day of July A. D. 1917, while the United States was at war as aforesaid, with the Imperial German Government, one Carl Gleeser and one Jacob Frohwerk did unlawfully, wilfully and feloniously at Kansas City in Jackson County, Missouri, and within the Western Division of the Western District of Missouri, and within the jurisdiction of this court, attempt to cause disloyalty, mutiny and refusal of duty in the military and naval forces of the United States, in this, that they the said Carl Gleeser and the said Jacob Frohwerk did then and there unlawfully, wilfully and feloniously prepare, print, publish, distribute and circulate in and by means of and as a part of a certain newspaper known, designated and entitled "Missouri Staats-Zeitung," and in the issue thereof bearing date "Kansas City Mo. 6, Juli 1917," certain statements and certain reports, communications, articles and alleged news items, the said newspaper then and there being a newspaper generally circulated throughout the city of Kansas City, Missouri, and throughout the state of Missouri, and throughout other parts of the United States of America; said statements, reports, communications, articles and alleged news items being in words and figures as follows, to-wit:

"Come Let Us Reason Together."

"We can not possibly believe it to be the intention of our administration to continue the sending of American boys to the blood-soaked trenches of France. We can not believe that the General Staff has advised such a step which must be put down by every thinking man as a monumental and inexcusable mistake.

It comes no doubt from the great trusts, through their syndicate press, who see only the prospect of big money for themselves.

Come friends, let us consider the proposition for a moment. It is but right that every citizen should fully realize what we are up against.

28 Omitting all references as to who is to blame for the war, the fact must be admitted that all the great nations of Europe had been preparing for years feverishly for this great slaughter.

August, 1914, found Germany and Austria-Hungary simultaneously attacked from East and West by the mighty and splendidly equipped armies of France and Russia, re-enforced by Serbia and Belgium while England's fleet cut them off on the sea from the outside world. Since that time Russia alone has mobilized over 15 million men and lost in dead, wounded and prisoners over 8 million men. Yet notwithstanding this tremendous sacrifice of men and material, and with the further advantage of having to cross only an imaginary line, no treacherous ocean, three thousand miles wide, which divides us from our enemy, that mighty steam roller not only failed to crush Germany and Austria, but was itself completely demolished. As a result Russia is today in the throes of a bloody internal revolution and for years to come has been effectually eliminated from any further successful participation in the conflict. It's hors de combat.

On the other hand France, and later on joined by the million armies of Italy and England, have not been able to dislodge the German invaders to any appreciable extent from their territory.

Now we are told, personal bravery and heroism does not count in this war, it is a game of science of the highest order.

This being so, we should apply some of it ourselves. In other words, let common sense and reason govern our action instead of blind passion and fanaticism.

Common sense must tell every man, that when the Entente powers could not defeat the Central Powers with their mighty armies, we can not do so with a line of communication to maintain over three thousand miles long and subjected to an attack from the German U-boats against which no successful weapon has yet been found.

We are told that we have to take the place of Russia in this war. We have to do more than that, we have to replace practically France too; for we are told that in her armies boys, fourteen years old, are serving today. This is the best evidence to what dire straits the manpower of France has been reduced. England has exhausted the man-power of Canada, Australia and her other colonies. Herself, she remains true to her sacred traditions of saving her own men, of whom something like two million trained men are still in England. Why is it not England sending them over to France instead of us? Her line of communication is the hundredth part of what we will have to guard, and she has a far greater fleet than we have to do this work.

It is conceded, that it will be a year before we can land an army of a million men in France. They can be sent over only in small bodies for lack of sufficient tonnage to carry them. We ask, of what possible effective strength can they be in France? Why, it's a drop in the bucket, and to do so appears to be outright murder without serving anything practical.

These are strong words, we admit, but we would not be true to our allegiance and our love to this country, if we did not utter these words of warning to the American people. Neither would we be true to this Republic if we did not tell of the unconquerable spirit and undiminished strength contained in the German nation.

We have been born of that nation, we know its feelings, we have read its papers, and know therefore whereof we speak. Germany, let it be understood, considers herself attacked and is imbued with that thought to the last man. She will fight to the last drop of blood, and it is this feeling, that amounts almost to a religious faith, which is the key to the marvelous strength with which she has withstood all the attacks of her enemies, although far outnumbered in men and resources.

Our American neighbors and friends are entitled to this information. Not to utter it would be treason to this—now our country.

This feeling of duty to America prompts us in warning and in protesting against the sending of troops to France even at the danger of being misunderstood.

29 We feel, our American friends agree with us in regretting the necessity of a war with Germany—with any country for that matter.

Having become involved, should it not be our duty to see to it, that the result should be as little disastrous to ourselves as possible.

Germany has not as yet recognized in any way our declaration of war.

We are being told that unless we fight now on the fields of France, the Allies will be overpowered and Germany will collect her war indemnities from us. If this is the reason for our sending troops over to France, we submit as a wiser course, that every American soldier be kept at home against the time when Germany shall attempt to do her collecting from us. To attack us here at home, she would be at as great disadvantage as we are now in attacking her. Both propositions are equally preposterous and impossible."

Independence, Mo., July 3, 1917.

EDITOR STAATS-ZEITUNG: Controversy among friends who are seeking to prevent the terrible sacrifice of life in the European war should be avoided. But the excellent extract from Mr. Hannis Taylor and the justly high standing of that gentleman calls for a correction of an error. He is right in saying that our military force consists only of a regular army, which can be recruited only by voluntary enlistment (and of course volunteer in time of war) and the State Militia. These last, as he says, are to supplement the regular army in three events—to enforce the law, suppress insurrection and repel invasion. This wise military system—the only one where liberty will not be destroyed by military force—was intended to prevent in the words of the Federalist: "Both the excuse and the necessity for a large army, dangerous to liberty." It was also intended to make a foreign war of aggression impossible, because the last was considered as repugnant to Republican government and in the language of Jefferson: "Suited only to government founded upon the reverse idea of military force."

This military system has been completely destroyed by the present administration, and we have gone to the reverse system, rejected by the founders and the Constitution.

But Mr. Taylor seems to think the present force is a part *to* the militia. It is not. Our state militia has been destroyed, though it is declared by the Constitution: "A well regulated militia is necessary to the security of a free state." (2 Amn.) This security has been destroyed upon the demands of Mr. Wilson.

The present force is a part of the regular army raised illegally. And this I feel confident will be so decided if I can ever get a case in the Supreme Court.

Mr. Taylor also says: "No part of the regular army shall be sent abroad except by the mandate of Congress." Now I say, and the debates in the Convention will bear me out, that there is no power in our government, Congress or the President, to send an army into a foreign country except it becomes necessary to do so as a part of a defensive war.

The debates in the Convention bear this out when the words "Congress shall have power to make war" were stricken out and the words "declare war" substituted.

But what is the use to talk about the Constitution? We have laid that aside and have a one man government. The question is no longer what does the Constitution say, but what does Mr. Wilson want."

JOSEPH D. SHEWALTER.

30 Contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America.

Third Count.

And the Grand Jurors, aforesaid, chosen, selected, drawn, summoned, examined, impaneled, sworn and charged, as aforesaid, upon their oaths do further present and charge that on the 20th day of July A. D. 1917, and for a long period of time prior thereto, and for a long period of time subsequent thereto, the United States of America was at war with the Imperial German Government; that on or about the 20th day of July A. D. 1917, while the United States was at war as aforesaid, with the Imperial German Government one Carl Gleeser and one Jacob Frohwerk did unlawfully, wilfully and feloniously at Kansas City in Jackson County, Missouri, and within the Western Division of the Western District of Missouri, and within the jurisdiction of this court, attempt to cause disloyalty, mutiny and refusal of duty in the military and naval forces of the United States, in this, that they the said Carl Gleeser and the said Jacob Frohwerk did then and there unlawfully, wilfully and feloniously prepare, print, publish, distribute and circulate in and by means of and as a part of a certain newspaper known, designated and entitled "Missouri Staats-Zeitung," and in the issue thereof bearing date "Kansas City, Mo., 20, Juli, 1917," certain statements and certain reports, communications, articles and alleged news items, the said newspaper then and there being a newspaper generally circulated throughout the city of Kansas City, Missouri, and throughout the State of Missouri, and throughout other parts of the United States of America; said statements, reports, communications, articles and alleged news items being in words and figures as follows, to-wit:

31 "We are deeply indebted to Dr. Elliott, professor of international law at the University of California and a brother-in-law of President Wilson for having clearly diagnosed the present political situation of the United States.

At a lecture in Berkeley, Calif., the professor states that the Monroe Doctrine is and should be in the discard, that we must forsake our isolation and have our finger in the pie, so to speak everywhere.

This is exactly as the Staats-Zeitung has sized up the situation and it is precisely upon the wisdom of this change in our policy that we differ with Mr. Wilson.

To state the case plainly: We have thrown the advice of George Washington "to maintain friendly relations with all and entangling alliances with none" to the winds. We have abandoned the Monroe

Doctrine and embarked upon a new and untried policy, that of acquiring a World influence and World empire. In short an "imperialistic policy."

This then is bringing out the real issue concerned in this war free from all such pretenses as fighting for democracy, against the Kaiser, because Germany sunk our ships, etc.

Mr. Elliott tells us, the Monroe Doctrine Is in the discard. This explanation clears up a great many positions maintained by Mr. Wilson during the war which in the light of American history seemed unexplainable. For instance, it explains why we respected the English blockade and opposed the German blockade, for as Mr. Elliott puts it: "We must associate with all those states which share our ideals of self government, for a democracy in being a government by the people is the safest guarantee for peace." Since the Monroe Doctrine Is In The Discard we presume therefore the association with such states as Mr. Elliott enumerates Is too an accomplished fact, that it was so at the beginning of the war in 1914. It too substantiates Mr. Wilson's expression on May 12 that we have no grievances of our own to fight for.

This policy, let it be clearly understood, it not to be decided upon, but is an accomplished fact. We might here make observation how such a change could take place without the express command of the people, if such expressions as this being a government of the people still holds good. We might too with perfect propriety ask who authorized the President to carry into effect a change of such transcendent importance. All of this would be idle at this time and a waste of time. It would lead nowhere.

What we are interested in at this time is the question: How has the change worked out so far. Let us see. We are by reason of having Abandoned the Monroe Doctrine and as a direct result already involved in a bloody war.

Our legislative branch of the government has already appropriated sums of money to carry on the war that staggers the imagination of all mankind. Moreover our nation is in the throes of internal strikes, riots, race wars, etc. For who dares deny that these things are not the result of this change in our policy? Had we remained true to the teachings of our patriotic fathers of the Republic, we would have lived as happy as ever, even though the storm was raging over two other continents.

But we had changed from their ways and instead of remaining neutral as they had under like circumstances, the horrible monster "agreed" made us coin money out of the blood of our brethren in other nations. We have unchained this monster and bidden him to our shores, we have welcomed him to our hearthstones and what else can we now expect, but to be ruled by him?

Truly has it been said: "what shall it profit a man to conquer the whole world and lose his own soul."

And now a look further. Suppose we come through it all unscathed and gain what we set out for. England has given the world an example as to what the policy results in. Although it owns one third almost of the known world, only a very few of its 45 million

people are rich, and one third of its population lives in abject poverty and almost in literal slavery. This result is as inevitable to us as it is to England! Already we have future generations, children yet unborn, mortgaged with an appalling debt. And don't we know, that it is not the rich, but the middle classes and the poor upon which the burden of taxation falls the heaviest? And we are now only at the beginning of it all and have not even included in these calculations the rivers of human blood it will cost.

The Monroe Doctrine is in the discard, that is at present. There is no manner of remedy for it. But next election, a little over a year from now, the question will then be squarely up to every American elector, whether or not it shall remain in the discard."

Contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America.

33

Fourth Count.

And the Grand Jurors, aforesaid, chosen, selected, drawn, summoned, examined, impaneled, sworn and charged, as aforesaid, upon their oaths do further present and charge that on the 3rd day of August A. D. 1917, and for a long period of time prior thereto and for a long period of time subsequent thereto, the United States of America was at war with the Imperial German Government; that on or about the 3rd day of August A. D. 1917, while the United States was at war as aforesaid, with the Imperial German Government, one Carl Gleeser and one Jacob Frohwerk did unlawfully, wilfully and feloniously at Kansas City in Jackson County, Missouri, and within the Western Division of the Western District of Missouri, and within the jurisdiction of this court, attempt to cause disloyalty, mutiny and refusal of duty in the military and naval forces of the United States, in this, that they the said Carl Gleeser and the said Jacob Frohwerk did then and there unlawfully, wilfully and feloniously prepare, print, publish, distribute and circulate in and by means of and as a part of a certain newspaper known, designated and entitled "Missouri Staats-Zeitung," and in the issue thereof bearing date "Kansas City, Mo. 3, August 1917," certain statements and certain reports, communications, articles and alleged news items, the said newspaper then and there being a newspaper generally circulated throughout the city of Kansas City, Missouri, and throughout the State of Missouri, and throughout other parts of the United States of America; said statements, reports, communications, articles and alleged news items being in words and figures as follows, to-wit:

34

"Lansing on War Issues."

"Nothing in recent days has stirred the nation so deeply as has the speech of our Secretary of State Robert Lansing last Sunday at Madison Barracks, N. Y.

Almost during the entire week the question as to the real issues involved in our war with Germany had been under discussion in the

U. S. Senate. During these memorable debates Senator Borah made this statement:

"We have our Allies and with them a common purpose, but America is still America, with her own institutions, her individuality in moral and intellectual conception of her own people; she is still a sun and not a satellite. Sir, if our own institutions are not at stake, if the security of our own country is not involved, if we as a people and as a Nation are not fighting for our own rights, and the honor and lives of our own people, our declaration of war was a bold and impudent betrayal of a whole people and in its further continuance a conspiracy against every home in the land."

It was to this challenge and to many others like it, that Mr. Lansing in his speech was to give the answer. What was the answer? Reading every line of that speech over and over again, we fail to find one word or syllable where even only one of the many elements, mentioned by Senator Borah, are involved. Aside from many inuendos and suppositions there is not one solitary Direct assertion of American institutions threatened, American lives involved, or American honor at stake.

The nearest Mr. Lansing comes to mentioning any Direct cause for war is in these words:

"The immediate cause of our war with Germany—the breaking of her promises as to indiscriminate submarine warfare—has a far deeper meaning, a meaning which has been growing more evident as the war has progressed and which needed but this act of perfidy to bring it home to all thinking Americans."

Truth compels us to say, that the above statement of the Secretary of State has been repeatedly denounced as a "deliberate falsehood" upon the floor of both houses of Congress.

There was no such a perfidy as Mr. Lansing charges here and no one knows this better than does Mr. Lansing himself.

The promise of Germany, let it be here repeated, was conditioned upon our own administration prevailing upon England to give up what Mr. Wilson designated as "an illegal and insufferable blockade." Germany expressly stated in her note, and we dare Mr. Lansing to deny it, that she would be forced to a return of the ruthless submarine warfare unless Great Britain would cease her illegal blockade.

Mr. Lansing says :

"Imagine Germany victor in Europe because the United States remained neutral. Who then, think you, would be the next victim of these who are seeking to be masters of the whole earth? Would not this country with its enormous wealth arouse the cupidity of an impoverished though triumphant Germany? Would not this democracy be the only obstacle between the autocratic rulers of Germany and their supreme ambition? Do you think that they would withhold their hands from so rich a prize?"

Great God! If we remained neutral? What sort of an audience could it have been that Mr. Lansing dared tell such a palpable untruth?

Almost with the firing of the first gun in the European war we have outraged every sense of morality, decency and violated every

provision of international law by furnishing bombs, shot and powder to one of the belligerents.

This action of our administration is the direct cause of this war, but Mr. Lansing dares not tell the truth to the American people. Why does Mr. Lansing ask this question?

“Let me then ask you, would it be easier or wiser for this country, single-handed, to resist a German empire, flushed with
35 victory and with great armies and navies at its command, than to unite with the brave enemies of that empire in ending now and for all time this menace to our future?”

Germany has existed some two thousand years before and has been flushed with victory in many wars. Now we ask Mr. Lansing, did Germany in all the time of our national existence ever exhibit the slightest designs upon us or for that matter upon any other country? On the contrary, has not Germany been our only consistent friend of all the other belligerents?

The Secretary of State can not name one good and sufficient reason upon which to base his assertion. It is made out of whole cloth. It is more. It is pressed out of a guilty conscience for having violated our neutrality and furnished ammunition and money to the enemies of Germany.

When Mr. Wilson, upon the request of our big financial interests, but against his better and often expressed knowledge of neutrality laws, consented that these laws be deliberately violated; he believed what he was told, that Germany would speedily be crushed. This expectation has not been realized. The principle of law invoked by us in the Civil War against Great Britain for breach of neutrality would have served as precedent to bring us before the bars of Justice at the close of the war and would have made us as liable for damages inflicted as it did England then.

Patriotic American citizens pleased in vain with the administration and with Mr. Wilson personally against this breach. The *Staats-Zeitung* was one of the most ardent and persistent to point out this great wrong and the consequent danger such a policy must eventually bring to our nation. For our efforts in behalf of the honor and the security of our Republic we were called traitors by Mr. Wilson.

That a few men and corporations might amass unprecedented fortunes, we sold our honor, our very soul. We sowed to the winds and are reaping now the whirlwind. This, Mr. Lansing knows is the true state of affairs, that is the reason we are at war now. We challenge contradiction.

Ever since the wrong step has been taken, our statesmen have floundered in a lot of excuses for the war. Mr. McAdoo has told us, we are fighting because we love the German people. Mr. Lane said: “It is a war against Mohammedanism”, and only Mr. Wilson has been open enough to admit: “We have no grievances of our own.” That is true.

We have gone to war to cover up this awful blunder of our administration and to protect the loans of Wall Street to the Allies with the blood of our American boys and the sacrifices and sufferings of the American people.

This is the sad but true story of it.

Let us trust and pray, that Senator Stone's prediction about this being the greatest blunder yet, shall not come true."

Macon, Mo., July 26, 1917.

Carl Gleeser, Kansas City, Mo.

MY DEAR SIR: Enclosed please find \$1.00 to renew my subscription. I wouldn't be without it for ten times the subscription. I just returned from Hot Springs, Ark., where I was for the last month. I sent Nos. 35 & 36 of the Staats-Zeitung to the commanding officer of Military and Navy Hospital at Hot Springs who has forwarded them to the Adjutant General of the U. S. Army. If you can spare me Nos. 36 and 36 & 37, I wish you would send them to me as I am keeping a complete file.

Respectfully,

CHAS. P. HESS.

36 From every principal capital of the belligerents have come a discussion of some sort of peace terms in recent days. A comprehensive summary of these discussions presents this situation: The German Chancellor, Dr. Michaelis, stated in his maiden speech before the Reichstag, that the Central Powers are at any time ready to enter into negotiations for peace. Germany, however, can not renew its offer of November 1916. Such a proposition must come from the other side.

Acting upon this, Senator Lewis, spokesman in the Senate for the administration, on Monday July 23, urged upon his colleagues the advisability of the United States prevailing upon all belligerents to enter upon such negotiations. The Senator very correctly pointed out, that the United States was in a better position to underake this work than perhaps other belligerents.

Paris, in its discussion, urged on by England makes such demands upon Germany as are wholly unwarranted by the military situation and London, of course, sides with France in its discussion.

We are thus confronted with these facts: That but for England and France, the terrible war could be brought to a very quick determination.

Keeping this in mind, let us at this time recall the statement made a short while ago by Ex-President LaFolliers of France. He said: "France can easily overcome the effects of a lost war. Not so England. Even a drawn war means defeat to England and an end to her world domination. With her prestige of being unconquerable destroyed, not only the colonial empire collapses, but with it her financial system.

A peace on even terms means ruin to her, for her creditors would wipe their slates clean and she would have then as many enemies as she now has allies. Not one of them loves England, they feared her and this fear once destroyed, would destroy England."

What are the historical facts about the war?

The war was started by the money power of Great Britain to crush

Germany which has become a dangerous competitor.

What are the results after three years of war? Briefly stated: Russia out for good, will soon permit the release of tremendous armies to crush Italy, drive the Allies out of Greece and England out of Mesopotamia. The German lines in France, so American officers tell us, are impregnable and can be held indefinitely.

The German submarines will have sunk the England merchants fleet, including what is being built now, by February 1919.

English money power has lost its war against Germany.

Having no grievances of our own to fight for, the question now squarely before the American people is, how far we are willing to sink our fortunes and spend the best blood of the nation to hold off the complete collapse of the English money power.

We do not fail to give full recognition of the tremendous power wielded in this war by our own financial interests through a corrupt press and other channels, and which to all purposes and intents is now allied with that of England. Neither do we fail to realize, that notwithstanding all our boasts of democracy, our public officials are in the last analysis but pawns of this tremendous, invisible power of Wall Street.

But we are not pessimistic enough to have lost all our faith in popular government, when the people are once aroused to the dangers threatening them.

But even were we willing to spend our last dollar and give up our last boy, can we hold England from disaster?

In the short space of three years we have seen three of the mighty nations of Europe going down in defeat and now crumbling to pieces.

We have absolutely nothing they did not have when they went into the fight. In fact they had the advantages of a mighty fleet which we have not, they had two splendidly equipped armies and fought at their very own doorstep while we must travel 3000 miles.

37 They armies were reinforced by those of Italy in the South and all without avail.

Does not the answer come to us, re-echoing through the last three years of undescribable horror and suffering, from the battlefields of Europe—that there has already been an overabundance of human lives and misery sacrificed to the Molach of gold? We say therefore: Cease firing.

Contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America.

38

Fifth Count.

And the Grand Jurors, aforesaid, chosen, selected, drawn, summoned, examined, impaneled, sworn and charged, as aforesaid, upon their oaths do further present and charge that on the 10th day of August A. D. 1917, and for a long period of time prior thereto and for a long period of time subsequent thereto, the United States of America was at war with the Imperial German Government; that on or about the 10th day of August A. D. 1917, while the United States was at war, as aforesaid, with the Imperial German Government, one

Carl Gleeser and one Jacob Frohwerk did unlawfully, wilfully and feloniously at Kansas City, in Jackson County, Missouri, and within the Western Division of the Western District of Missouri, and within the jurisdiction of this court, attempt to cause disloyalty, mutiny, and refusal of duty in the military and naval forces of the United States, in this, that they, the said Carl Gleeser and the said Jacob Frohwerk did then and there unlawfully, wilfully and feloniously prepare, print, publish, distribute and circulate in and by means of and as a part of a certain newspaper known, designated and entitled "Missouri Staats-Zeitung," and in the issue thereof bearing date "Kansas City Mo. 10, August, 1917," certain statements and certain reports, communications, articles and alleged news items, the said newspaper then and there being a newspaper generally circulated throughout the city of Kansas City, Missouri, and throughout the State of Missouri, and throughout other parts of the United States of America; said statements, reports, communications, articles and alleged news items being in words and figures as follows, to-wit:

39 "With every citizen who believes in law and order, the Staats-Zeitung deeply deplores the draft riots in Oklahoma and elsewhere. Of course we fully agree with those who feel, that the passing of the draft law is a violation of the Constitution. But until properly constituted Courts of the land say so, the law may be criticized, but it must be obeyed.

As a matter of fact, violence and armed resistance are a wrong in itself and while we believe the draft law wrong, two wrongs never yet have made a right.

Happily, in our country we have every agency provided for us by the framers of the Constitution to right a wrong without having to take recourse to force.

In the draft law, as well as in all others, if we feel aggrieved, we have the courts to which we may go for protection. Should these fail us, we have *then* the right to petition Congress to repeal the law and should we again fail here, *then* we can ourself right the wrong at the next election.

But we shall admit right here and now, that this is all very well and good for those of us to talk who are past the draft age or who have no boys of our own to be drafted. But how does the other fellow feel about it who finds himself subject to the law? Can we comprehend the workings of his mind and heart?

Here he is, called upon to leave his wife and children, or his aged parents, or to give up the boy upon *which* he expected to bestow the fruits of his life work and lean upon in the days to come.

Here he is, with the look of anguish and of pleading for help and relief in the eyes of his wife, staring him in the face, day after day. She is sorrowing and pleading for her husband, the father or her children or their son. The courts are perhaps far away, and if not, he has not the means to ask protection from them. Is not this enough to drive any man to distraction?

And he perhaps further contemplates, that his country is really not in danger, and that he or his boy are to be sent into a foreign land to fight in a cause of which neither he nor any one else knows any-

thing of. And perhaps the suspicion works itself into a conviction, that it is but a war to protect some rich men's money.

We ask who *then* will arise and pronounce a verdict of guilty over such a man if he stops reasoning and follows the first impulse of nature: "Self preservation?"

If this country is in danger of invasion, no man will find him a slacker or coward refusing to do his full duty, but what possibly interest has he in making the world safe for democracy or getting rid of the Kaiser or the Czar or King George or any one else?

Is it not natural to reason thus and while technically he is wrong in his resistance, is he not being more sinned against than he himself has sinned?

Mr. Wilson has said: "We really have no grievance of our own to fight for."

Is not *then* before God and before man the guilt of those who voted without good and sufficient cause upon these men and women, upon the American people, this awful and unnatural sacrifice far greater than the wrong perpetrated by these who now seek to escape the sacrifice by ill advised resistance?

We emphatically reiterate, that we do not endorse their action in any manner, but we should not be human if we could withhold from them our heartfelt sympathy in their tribulation.

A Simple-Sum in Simple-Numbers.

According to the Kansas City Journal of July 28th the expense inflicted on the people in this "War for Democracy" in Europe and slavery in that part of the British empire known as the U. S. A. is 48 millions per day.

40 Now "gentle reader" if we are running in debt 48 millions a day, how much are we throwing into this whirlpool of destruction,—this slaughter pen, every hour? Answer, 2 millions. If we are spending 2 millions every hour how much *as* we spending every 30 minutes? Answer, one million. If we are spending one million every thirty minutes, how much are we spending every minute? Answer, \$333,333.

When we bought into this bankrupt concern, as a part of the consideration we assumed and agreed to pay all the liabilities of the institution. We felt of the people and found a small fraction of American sentiment remaining, so we hit them with only 3 billions. They winced but kept silent. Then came 4 billions more. Terror was imprinted on every countenance but no outcry for the land was full of Janizaries. Then the pile in the center of the table began to increase. Now in round numbers it is 18 billions which is only a penny ante as compared to what will follow. But let us stick a pin here and see how we stand. The assessed value of all the property in Kansas—that is the entire state, is valued at 3 billions. Now, if we divide 18 billions by 3 billions the quotient is 6. Hence, we have put into the concern 6 full grown states each of the value of Kansas.

I verily believe that if we get China, all North and South America, including the convicts and savage tribes of these and all other coun-

tries and throw in the Fiji Islands and the Cannibals of Africa, we can make the galled jades wince. Germany is only a small province, only three-fourths as large as Texas, and if we can organize such an alliance as the one suggested and carry on the war for three years, she will pull down her colors. But in that event I shall pray to all the gods at once that they prohibit us from inflicting on them our kind of democracy. That is ours and we have no right to give it away and especially to those "Barbarous Huns."

Witness my hand at Larned, Kansas, this 6 day of August, 1917.
G. POLK CLINE.

Lloyd George in his speech last Saturday said: "War is ghastly business, but it is not so bad as peace."

Well, as far as we are concerned, we have no complaint to make in that regard. Germany has never done us any harm, in fact was the best friend we ever had.

If Germany maintained a big army, we take it that her neighbors on the East and West of her compelled her to keep pace with them.

But *than* that is nothing to us compared, for instance, to the English naval program of building two ships for her nearest competitor's one.

Why was it necessary for England to adhere to this program?

Big armies in Europe do not frighten us. We know they can not march across the Atlantic. What we are interested in and will have to keep an eye on, is the naval program of any country, particular England. We had quite a touch of her crushing power when she compelled us to forego our legitimate trade with other belligerents and neutrals since war started.

Why were we asked to "buy a bale of cotton" in the fall of 1914?

Because English naval power held our commercial trade in the hollow of her hand by reason of her overwhelming naval power.

She hauled down our flag, dumped our mail in the ocean, took our ships into her harbors, in fact acted just about as she pleased with us—and forced us into the war to pay her bills to boot.

Americans should open their eyes and learn to understand, that it is the autocracy of England we should really be fighting instead of autocracies elsewhere.

41 Contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America.

Sixth Count.

And the Grand Jurors, aforesaid, chosen, selected, drawn, summoned, examined, impaneled, sworn and charged, as aforesaid, upon their oaths do further present and charge that on the 17th day of August A. D. 1917, and for a long period of time prior thereto, and for a long period of time subsequent thereto, the United States of America was at war with the Imperial German Government; that on or about the 17th day of August A. D. 1917, while the United States

was at war as aforesaid, with the Imperial German Government, one Carl Gleeser and one Jacob Frohwerk did unlawfully, wilfully and feloniously at Kansas City in Jackson County, Missouri, and within the Western Division of the Western District of Missouri, and within the jurisdiction of this court, attempt to cause disloyalty, mutiny and refusal of duty in the military and naval forces of the United States, in this, that they the said Carl Gleeser and the said Jacob Frohwerk did then and there unlawfully, wilfully and feloniously prepare, print, publish, distribute and circulate in and by means of and as a part of a certain newspaper known, designated and entitled "Missouri Staats-Zeitung," and in the issue thereof bearing date "Kansas City, Mo., 17 August, 1917," certain statements and certain reports, communications, articles and alleged news items, the said newspapers then and there being a newspaper generally circulated throughout the city of Kansas City, Missouri, and throughout the State of Missouri, and throughout other parts of the United States of America; said statements, reports, communications, articles and alleged news items being in words and figures as follows, to-wit:

42 "Government contracts are profitable; goods you manufacture are now wanted by the government."

This information appears in letters sent out by the U. S. Legal Corporation from the Bond Bldg., Washington, D. C.

Profitable indeed and paid for out of the sweat and blood of the American people.

That's why we are in the war.

'Loyalty to government is a noble quality when the government strives for the peace and happiness of its people, but when rulers scheme to use them for their own aggrandizement loyalty serves to perpetuate wrong.'

The Pittsburg Kansas makes the above remark in upbraiding the Germany for standing by the Kaiser. Now will not the Kansan explain why its expression is not applicable to our own situation.

Contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America.

43

Seventh Count.

And the Grand Jurors, aforesaid, chosen, selected, drawn, summoned, examined, impaneled, sworn and charged, as aforesaid, upon their oaths do further present and charge that on the 24th day of August A. D. 1917, and for a long period of time prior thereto and for a long period of time subsequent thereto, the United States of America was at war with the Imperial German Government; that on or about the 24th day of August A. D. 1917, while the United States was at war as aforesaid, with the Imperial German Government, one Carl Gleeser and one Jacob Frohwerk did unlawfully, wilfully and feloniously at Kansas City in Jackson County, Missouri, and within the Western Division of the Western District of Missouri, and within the jurisdiction of this court, attempt to cause disloyalty,

mutiny and refusal of duty in the military and naval forces of the United States, in this, that they the said Carl Gleeser and the said Jacob Frohwerk did then and there unlawfully, wilfully and feloniously prepare, print, publish, distribute and circulate in and by means of and as a part of a certain newspaper known, designated and entitled "Missouri Staats-Zeitung," and in the issue thereof bearing date "Kansas City, Mo., 24 August, 1917," certain statements and certain reports, communications, articles and alleged news items, the said newspaper then and there being a newspaper generally circulated throughout the city of Kansas City, Missouri, and throughout the state of Missouri, and throughout other parts of the United States of America; said statements, reports, communications, articles and alleged news items being in words and figures as follows, to-wit:

44 Macon G. A. R. in Ringing War Resolutions.

(Published by Request.)

Headquarters F. A. Jones Post No. 23, G. A. R., Macon, Mo., May 5, 1917.

Resolutions.

Whereas the Congress of the U. S. A. has declared war against Germany, it is our duty as loyal American citizens to support our Government as patriotic citizens should do.

Therefore, Resolved:

1st. That in our opinion the law of conscription can only be applied as a law of self preservation, and so long as our Country is in no danger to be destroyed, the law to conscript men to do Military duty is premature, for the patriotism and love of Country ought and should bring a sufficient number of volunteers into the ranks of our Military for all purposes.

2nd. That in our opinion it is highly improper to send troops to Europe to fight for any cause, imaginary or otherwise.

3rd. That in our opinion the participation of our beloved Country in the existing unholy war of the world has only the tendency to prolong that war and not to terminate it.

4th. We are utterly opposed to ask and fight for the freedom of the seas, to supply food stuff to a certain nationality only, but that we are in favor of the freedom of the seas to all Nations and kindreds on earth and treat them all alike without fear or favor, and that we are not in favor of starve our own people, women and children, in order to supply food for any of the warring nations.

5th. That we sincerely deprecate the false and lying reports of the public press that the Germans, or any other nation has been, or are about to attack our Country, and pledge ourselves, that if any Nation or people will ever attack our country—the United States of America—that we, and our children will defend our Country and be ready and willing to sacrifice our lives in defense thereof. As

true Americans of the day we stand as fearlessly in opposition to all oppressors of this Nation as our forefathers stood in 1776.

Let we forget we call your attention to our declaration of independence.

CHARLES P. HESS, *Commander.*

Contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America.

45

Eighth Count.

And the Grand Jurors, aforesaid, chosen, selected, drawn, summoned, examined, impaneled, sworn and charged, as aforesaid, upon their oaths do further present and charge that on the 31st day of August A. D. 1917, and for a long period of time prior thereto, and for a long period of time subsequent thereto, the United States of America was at war with the Imperial German Government; that on or about the 31st day of August A. D. 1917, while the United States was at war as aforesaid, with the Imperial German Government, one Carl Gleeser and one Jacob Frohwerk did unlawfully, wilfully and feloniously at Kansas City in Jackson County, Missouri, and within the Western Division of the Western District of Missouri, and within the jurisdiction of this court, attempt to cause disloyalty, mutiny, and refusal of duty in the military and naval forces of the United States, in this, that they the said Carl Gleeser and the said Jacob Frohwerk did then and there unlawfully, wilfully and feloniously prepare, print, publish, distribute and circulate in and by means of and as a part of a certain newspaper known, designated and entitled "Missouri Staats-Zeitung," and in the issue thereof bearing date "Kansas City, Mo., 31 August, 1917," certain statements and certain reports, communications, articles and alleged news items, the said newspaper then and there being a newspaper generally circulated throughout the city of Kansas City, Missouri, and throughout the State of Missouri, and throughout other parts of the United States of America; said statements, reports, communications, articles and alleged news items being in words and figures as follows, to-wit:

46 We have hardly started with the building of an American Merchants fleet and already the British are reaching out their greedy hands for it. The Inter-Allied Chartering Committee of London has made the impertinent request upon the Federal Shipping Board, to place all American merchant ships, including those who are yet to be built, under its control.

In discussing the matter, several papers (The Northcliff press, of course, suppresses all information upon the question) express the hope that they will not be done.

Vain hope indeed.

After we had built the Panama canal for 400 million dollars, Mr. Wilson solemnly promised to maintain the advantages secured thereby to American ships using the ditch. How did he keep his promise? His first official act was to personally appear before Congress and re-

quest, on behalf of England, a repeal of the law exempting American ships from any toll, thereby placing English ships on an equality with our own, although the canal had not cost them a cent.

The sooner the public wakes up to the fact, that we are led and ruled by England, the better.

Then and only then will they understand why our sons are to be slaughtered in France, and why we have thrown the Monroe doctrine into the scrap pile, and embarked upon a world's policy.

A world's policy, not for our own benefit, but to help England in holding and in extending her world dominion.

Then and only then, when this situation is once thoroughly comprehended by the American people, when they once realize that their sons, their taxes and their sacrifices are only in the interest of England, will a return to a really sovereign and independent America be possible.

Contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America.

And the Grand Jurors, aforesaid, chosen, selected, drawn, summoned, examined, impaneled, sworn and charged as aforesaid, upon their oaths do further present and charge that on the 21st day of September A. D. 1917, and for a long period of time prior thereto and for a long period of time subsequent thereto, the United States of America was at war with the Imperial German Government; that on or about the 21st day of September A. D. 1917, while the United States was at war as aforesaid, with the Imperial German Government, one Carl Bleeser and one Jacob Frohwerk did unlawfully, wilfully and feloniously at Kansas City in Jackson County, Missouri, and within the Western Division of the Western District of Missouri, and within the jurisdiction of this court, attempt to cause disloyalty, mutiny and refusal of duty in the military and naval forces of the United States, in this, that they the said Carl Gleeser and the said Jacob Frohwerk did then and there unlawfully, wilfully and feloniously prepare, print, publish, distribute and circulate in and by means of and as a part of a certain newspaper known, designated and entitled "Missouri Staats-Zeitung," and in the issue thereof bearing date "Kansas City No. 21, September, 1917," certain statements and certain reports, communications, articles and alleged news items, the said newspaper then and there being a newspaper generally circulated throughout the city of Kansas City, Missouri, and throughout the State of Missouri, and throughout other parts of the United States of America; said statements, reports, communications, articles and alleged news items being in words and figures as follows, to-wit:

Dr. William T. Fitzsimmons of this city is not the first name on the casualty list of the American army in France, as Mr. Roosevelt puts it in a local evening paper. The records in Washington show that the first name on this list is that of a young

soldier from New York city of German parentage by the name of Burghardt.

Nevertheless we grieve as sincerely and as deeply with this community over the loss of the doctor as we do over the loss of young Burghardt and his widowed mother in far-off New York.

God knows the Staats-Zeitung has done everything within its power to spare these two mothers their terrible bereavement.

It is inconceivable to the human mind how a nation like ours, removed from the terrible holocaust in Europe by three thousand miles of water, could possibly become involved in that awful carnage, when nations like Switzerland and Holland, situated in the very midst of the conflagration, have managed to keep out. It stands to reason that if, under the terrible stress of warfare, there did occur violations of international laws and infringements of neutral rights they certainly would have happened more frequently, more annoyingly and with greater persistency close to the battle lines than thousands of miles away.

Surely we had far better opportunities to keep away from the danger than had these two nations just mentioned. But we have forsaken the counsel and the ways of our revolutionary fathers, thrown the Monroe Doctrine on the scrap pile and entered upon a world policy.

The two young men whose untimely death we now mourn, are the first sacrifices we are bringing this new venture into untried spheres. Hundreds, thousands, yes even millions of just such promising young lives may follow—will undoubtedly follow—unless the death of Burghardt and Fitzsimmons arouses in the national conscience the query: "*It is worth the price?*"

Contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America.

49

Tenth Count.

And the Grand Jurors, aforesaid, chosen, selected, drawn, summoned, examined, impaneled, sworn and charged, as aforesaid, upon their oaths do further present and charge that on the 28th day of September A. D. 1917, and for a long period of time prior thereto and for a long period of time subsequent thereto, the United States of America was at war with the Imperial German Government; that on or about the 28th day of September A. D. 1917, while the United States was at war, as aforesaid, with the Imperial German Government, one Carl Gleeser and one Jacob Frohwerk did unlawfully, wilfully and feloniously at Kansas City, in Jackson County, Missouri, and within the Western Division of the Western District of Missouri, and within the jurisdiction of this court, attempt to cause disloyalty, mutiny and refusal of duty in the military and naval forces of the United States, in this, that they the said Carl Gleeser and the said Jacob Frohwerk did then and there unlawfully, wilfully and feloniously prepare, print, publish, distribute and circulate in and by means of and as a part of a certain newspaper known, designated and

entitled "Missouri Staats-Zeitung," and in the issue thereof bearing date "Kansas City Mo. 28, September, 1917," certain statements and certain reports, communications, articles and alleged new- items, the said newspaper then and there being a newspaper generally circulated throughout the city of Kansas City, Missouri, and throughout the state of Missouri, and throughout other parts of the United States of America; said statements, reports, communications, articles and alleged news items being in words and figures as follows, to-wit:

50 France insists that it will agree to no ending of the war unless the German provinces of Alsace and Lorraine are ceded to France, and England proposes to deprive Germany of all her colonies in Africa. In order that they may remain in undisputed possession of this booty German militarism is to be destroyed in addition. And for this high purpose of the war America is being militarized and we are being chided because we are not enthusing at the prospect.

Of course, it was highly praiseworthy for Lord Northcliffe and other Englishmen to spend many hundreds of thousands dollars in this country to drag us into the war on the side of the Allies, but it certainly is looked upon as a heinous crime for Count Bernstorff to have expended a few thousand dollars for the purpose of maintaining peaceful relations between Germany and the United States, judging by the condemnation voiced forth against him in the majority of the big English dailies in the cities. Where are we at, anyway?

Contrary to the form of the statute in such cases made and provided and against the peace and dignity of the United States of America.

51

Eleventh Count.

And the Grand Jurors, aforesaid, chosen, selected, drawn, summoned, examined, impaneled, sworn and charged, as aforesaid, upon their oaths do further present and charge that on the 5th day of October A. D. 1917, and for a long period of time prior thereto and for a long period of time subsequent thereto, the United States of America was at war with the Imperial German Government of Germany; that on or about the 5th day of October A. D. 1917, while the United States was at war, as aforesaid, with the Imperial German Government of Germany, one Carl Gleeser and one Jacob Frohwerk did unlawfully, wilfully and feloniously at Kansas City, in Jackson County, Missouri, and within the Western Division of the Western District of Missouri, and within the jurisdiction of this court, attempt to cause disloyalty, mutiny, and refusal of duty in the military and naval forces of the United States, in this, that they the said Carl Gleeser and the said Jacob Frohwerk did then and there unlawfully, wilfully and feloniously prepare, print, publish, distribute and circulate in and by means of and as a part of a certain newspaper known, designated and entitled "Missouri Staats-Zeitung", and in the issue thereof bearing date "Kansas City Mo. 5, October 1917", certain statements and certain reports, communications, articles and alleged news

items, the said newspaper then and there being a newspaper generally circulated throughout the city of Kansas City, Missouri, and throughout the state of Missouri, and throughout other parts of the United States of America; said statements, reports, communications, articles and alleged news items being in words and figures as follows, to-wit:

52

The Truth in a Nutshell.

By Joseph D. Shewalter.

It is an unfortunate trait in men that those questions which by their importance, call most urgently for calm deliberation, excite those passions which make calm deliberation impossible. And as Republics are composed of an aggregation of men the defects of the individual are intensified in multitudes. It is to this trait we must look for the failure of Republics, and that men have been doomed to live under despotism.

There is another trait. Those mentally unbalanced, take up intense hatred to their best and dearest friends. It is so in Republics. For instance today the English press and the Syndicate owned press in the United States are eloquent in the denunciation of George III. (born in England as was his father but whom they tell us was a German), and all of his supporters.

The patriots of that day, they tell us were Pitt, Camden, Rockingham, Fox, Burke and all the Whig leaders. Yet they were denounced at that time as rebels and traitors, and the same class who now denounce them, now denounce the very men who uphold their principles.

I would like to appeal to the common sense and patriotism of the American people.

Israel received a form of civil government from heaven. They were happy and prosperous. At last, through sin and their own conduct, they brought misfortune upon themselves. They blindly refused to trace these to their true cause, and correct their own conduct and errors. They attributed their troubles to their Constitution and form of government.

Does not every one know this is our precise condition? They asked Samuel for a King that they might become like other nations. Samuel protested. I expect he was called a "rebel" "traitor" and other endearing names by the idiots of that day.

He told them that under a king, "like other nations" he would take their "young men for war," and take their substance for the same purpose. That under these oppressions they would finally cry out, "and the Lord will not hear you in that day." The voices of those who plead for the old order, the old Constitution, and the old liberty, was drowned by the voice of the multitude.

I ask earnestly, if the history of Israel is not our precise history? What has this war already cost us? It has cost us our Constitution and our liberty. It is to cost us at the start a million and a half of our young men "taken for war". Of our substance it is to take the first year thirty billions of dollars. How much money is

that! It would stagger the imagination, if even the imagination could grasp it. It is in a few words, a sum which exceeds all the amounts paid out by the United States for all purposes of war and peace, from July 4, 1776, to the commencement of Mr. Wilson's first term. All the expenses of a hundred and thirty seven years, is now crowded into one. Taft, we are told, was extravagant, yet the expenses of this one year would pay sixty years of Taft's extravagant administration.

But what are these European nations fighting for? Does any one know? Perhaps they are, as said by Jefferson, "But nations of eternal war". But, if sanity prevails, I think, I can tell what it is all about.

England has become the commercial nation of the world. Her commerce commanded the sea. All our exports and imports were carried in her vessels. Our industries were confined to agriculture, to mining and to manufacturing. The first two were taxed for the direct benefit of the last. Out of this system directly grew those monsters known as trusts. Under the tariff of 1847 and 1857 our carrying trade, sprang into existence, and became the greatest in the world, surpassing England. Had not the civil war come, war would
53 have come with England three years ago. But the civil war, and the great protective tariff, which has since prevailed, completely destroyed our carrying trade.

We talk about our rights on the sea, we have no commercial vessels on the sea. We built a canal, but we have no vessels to pass through it except vessels of war, and coasting vessels.

In 1871 under Bismark, the German Confederation was formed. It was the most enlightened freest and best government in Europe, except Switzerland, which must always be excepted from all comparisons. This fact as to the government of Germany is notorious, and is proved in detail by Prof. Woodrow Wilson's works.

Whatever we may think of Germany, at present, her people are among the most intelligent and energetic in the world. Where this is the case, under free institutions, the people must be prosperous, and they present that happy condition, where wealth is diffused among the people. Conditions are proved by this further fact that this little Confederation is defending its country from invasion, as no other people has ever defended its native land. Whatever we believe in the United States, or made to believe, through the suppression of truth, and the printing of falsehoods, the German people themselves, believe they are defending their homes and their liberties.

Germany determined to reach out and become a rival of England for the sea trade. England determined to have no rival, as she has determined for centuries past. To that end she alone, of the European nations rejected the rules of "International law" known as "the great American Doctrine" as laid down by Jefferson. In their place she laid down certain rules, called "Orders in Council" and rules of her prize courts. These rejected the rights of every other nation, and made them subservient to her.

England easily engaged France because of old animosities. She easily controlled Russia; yet in passing I will say she never spoke a word in behalf of the down-trodden people, when a word from her would have abolished Siberia and Russian despotism.

And so war came in order to suppress and conquer Germany, and to prevent her from becoming a rival on the sea. God knows this is the truth and history will record it.

And all this loss of lives and the grinding taxes on the American people are to perpetuate the sea monopoly of England—which has never had a rival, except by the United States for about ten years before the Civil War.

Well how did the United States get into it? These great trusts had controlled one political party completely, and it sought and captured the other completely in 1912. Bryan did it, intentionally or unintentionally, at Baltimore; and these interests made Roosevelt run to complete the victory in the general election.

War came in Europe, and for the first time in our history (with one exception) the wealth of these great trusts was turned to supplying the armies of the Allies with all they needed. The administration did all it could to facilitate this illegal and contraband trade, on both land and sea. Mr. Taft says: "We observed strict neutrality."

He thus admits that such a thing as "Neutrality" exists in law. But if certain nations—England and France—can raise armies, and are belligerents; and a third nation, can supply everything to equip, maintain and make effective these armies and is yet a "neutral", then no such thing as neutrality exists, or can exist, in reason or law.

And finally these great interests demanded war for three reasons:

First. The Allies were exhausted financially and were unable to buy and pay for more munition.

54 Second. They were uneasy about the debt owed them, and wished the United States to advance the money to these foreign nations to pay for the munition they had already bought.

Third. They wished an enormous debt created, which would be owed to them and grind the people down for hundreds of years. They wanted a great creditor class to own and collect the substance of the toilers.

This made a large standing army both profitable and necessary. This last has come, and in my opinion, the Empire is enthroned.

They say the Constitution is suspended for war. The empire is then enthroned for the war at least, and where did an empire once enthroned, ever voluntarily relinquish its power?

Contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America.

55

Twelfth Count.

And the Grand Jurors, aforesaid, chosen, selected, drawn, summoned, examined, impaneled, sworn and charged as aforesaid upon their oaths do further present and charge that on the 30th day of

November A. D. 1917, and for a long period of time prior thereto and for a long period of time subsequent thereto, the United States of America was at war with the Imperial German Government; that on or about the 30th day of November, A. D. 1917, while the United States was at war as aforesaid, with the Imperial German Government, one Carl Gleeser and one Jacob Frohwerk did unlawfully and feloniously at Kansas City in Jackson County, Missouri, and within the Western Division of the Western District of Missouri, and within the jurisdiction of this court, attempt to cause disloyalty, mutiny and refusal of duty in the military and naval forces of the United States, in this, that they the said Carl Gleeser and the said Jacob Frohwerk did then and there unlawfully, willfully and feloniously prepare, print, publish, distribute and circulate in and by means of and as a part of a certain newspaper known, designated and entitled "Missouri Staats-Zeitung," and in the issue thereof bearing date "Kansas City, Mo., 30 November, 1917," certain statements and certain reports, communications, articles and alleged news items, the said newspaper then and there being a newspaper generally circulated throughout the city of Kansas City, Missouri, and throughout the state of Missouri, and throughout other parts of the United States of America; said statements, reports, communications, articles and alleged news items being in words and figures as follows, to-wit:

56 The next move will be on our part, that is on the part of the Allies. Remember we must give answer, not only to the Central Powers but to Russia as well. That great, though badly disorganized nation we find on the side of the Central Powers now. It is with this condition our statesmen will have to reckon. The situation has already changed and it will require the utmost mental keenness and discrete planning on the part of our diplomats to secure for us an honorable peace.

German staff officers are now reported to be in Petersburg.

Contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America.

And the Grand Jurors, aforesaid, chosen, selected, drawn, summoned, examined, impaneled, sworn and charged as aforesaid upon their oaths do further present and charge that on the 7th day of December A. D. 1917, and for a long period of time prior thereto, and for a long period of time subsequent thereto, the United States of America was at war with the Imperial German Government; that on or about the 7th day of December A. D. 1917, while the United States was at war as aforesaid, with the Imperial German Government, one Carl Gleeser and one Jacob Frohwerk did unlawfully, wilfully and feloniously at Kansas City in Jackson County, Missouri, and within the Western Division of the Western District of Missouri, and within the jurisdiction of this court, attempt to cause disloyalty, mutiny and refusal of duty in the military and naval forces of the United States, in this, that they the said Carl Gleeser and the said Jacob Frohwerk did then and there unlawfully,

wilfully and feloniously prepare, print, publish, distribute and circulate in and by means of and as a part of a certain newspaper known, designated and entitled "Missouri Staats-Zeitung," and in the issue thereof bearing date "Kansas City Mo. 7, December 1917," certain statement and certain reports, communications, articles and alleged news items, the said newspaper then and there being a newspaper generally circulated throughout the city of Kansas City, and throughout the State of Missouri, and throughout other parts of the United States of America; said statements, reports, communications, articles and alleged news items being in words and figures as follows, to-wit:

58 Mr. Wilson's message may be joyfully received in England, France and Italy. But after the average American has read through the labyrinth of high sounding sentences he comes to the conclusion that they contain not a word of either cheer or hope to him. For almost nine long months now he has borne great sacrifices for this war. He has given his boys, complied with the request for a meatless and wheatless day each week, subscribed twice to a liberty loan, contributed to the Red Cross, and numerous other funds, and worst of all, he has seen day by day the cost of living going up and almost getting beyond his reach.

He felt that it was due him to be remembered for all this in the President's message, his sacrifices recognized and some hope held out to him as to how the future of his beloved nation would be bettered and enriched by his efforts, and how soon he might expect it to be all over so he might resume the peaceful tenor of his ways.

Instead of finding all this set forth in a clear, concise and to him understandable manner, he reads in the message this:

"We are in fact fighting for their (the Germans') emancipation from fear, along with our own, from the fear as well as from the fact of unjust attack by neighbors or rivals or schemers after world empire."

As far as the American is concerned this language is absolutely beyond his comprehension. What concern should it be to him to emancipate the Germans, whom he is supposed to be fighting, from any fear? Who can say when that thing the President calls "fear" has been subdued and the emancipation accomplished? As to emancipating the American from any such fear, the President speaks of, why there is not an American citizen who knows of harboring such a fear. Upon this score Mr. Wilson's mind can be quickly set at rest. The American people feel absolutely and positively no fear of the United States ever being conquered by any power aspiring towards world's empire.

The message shows, that while he declines to again discuss the causes of our war, he goes into great detail regarding the great wrongs committed by Germany against other nations, matters already under discussion for the last three years. And the American is again forced to ask, what concerns are these wrongs to the United States? We certainly can not be expected to go about the world fighting to right all the wrongs that are being done. And how do we know they are wrongs? Mr. Wilson may think they are, and

other people may differ with him quite decidedly upon that question, the same as they do differ with him regarding as to who is to blame for the European war. He thinks Germany dominates Austria; many others and just as well informed people, think England dominates France, Italy, and up to a few weeks ago, Russia. Who is right?

But what does all of this concern us as Americans? Let them have their feuds, fights and wars over there for all any Americans should care about. What we are concerned in is the question, when will our grievances with Germany be considered righted and when can the American people expect peace? To this question Mr. Wilson has given no answer in his message—but in stead—has urged that the war be extended to Austria-Hungary, for no other reason than that it is an ally of Germany. We therefore repeat, his message may bring cheer to England, France and Italy. It brings none to the American people.

William Bross Lloyd, one of the owners of the Chicago Tribune, from his office in the Tribune Building, issued an open letter to Clarence Darrow, a copy of which he sent to the Chicago Examiner, with the request that it be published.

It was issued on the occasion of the announcement that Mr. Darrow would speak at Medinah Temple on the subject "Why We Are At War."

59 The letter bears Mr. Lloyd's signature. Upon its receipt a representative of the Examiner called Mr. Lloyd by telephone and asked him if he had written it and if he desired that it be printed. He said he had written it and he did want *it* printed.

The letter in full follows:

"Mr. Clarence S. Darrow, 140 North Dearborn Street, City.

DEAR SIR: I see you are to speak tonight on "Why We Are At War." Possible you can do me a service.

"I am bitterly against this war.

I think our entrance into it was the most mon-trous treachery to the people of the United States that has ever happened. I don't care at all about hindering the conduct of this war. I want to stop it here and now, immediately if not sooner.

"I feel as I do because I feel we were plunged into it, betrayed into it by officials knowingly acting against the people's will; because I feel our going to war to be absolutely of no benefit to the people of the United States; because I feel, on the contrary, that it is and will be of vital detriment to every interest of the people.

"I very clearly differentiate between patriotism to the people of the United States and patriotism to big business and the administration of the United States government which has served and is serving its interests. And yet it is a very bitter thing to me not to be able to climb on the band wagon and listen to the lovely siren music of our so-called patriotism. Possibly you can help me see the light.

"In my stand I feel I am representing the interests of the working class, and in a country where wealth is so concentrated as ours, that

is the same as the people. In a country where, as your friend, Frank Walsh, shows, nine out of ten working men get less than \$20 per week, where 70 per cent get less than \$15, where half the working women get less than \$6, the workers are the people.

"Now discarding all altruistic crusading idealism (i. e. not attending to our business but making the world safe for democracy) and moral platitudes and honorable pretenses, tell me how in any concrete way the life and living conditions of nine people out of ten will be bettered during the war or after it.

"Will their wages be higher, will their wages buy more; will they be better clothed, housed, fed, educated; will they have more and better recreations? Will employment be more secure, their livelihood more certain? Will they be freer of the haunting specter of unemployment, incapacity due to age, disease or accident, the worry that kills and crazes?

"Will they have a better chance to live, to love, to rear a family—in short, to do the simple, fundamental things that really make up life and make it worth while living?

"Of course, I realize that if the Kaiser conquers this country they will lose the chance to vote for a President who kept us out of war only to plunge us in without any consultation of the people. But if we are conquered wouldn't the Kaiser do that for us just as well? Also we lose a lot of rights like the right to throw ashes or garbage in our alleys and to *to* a lot of unhygienic things like that? But wouldn't that be better for us? Tell me and be specific and concrete. Maybe you can convince me.

60 "It has been reported to me that you have said: 'When the war is over I will be back in the radical movement.' Yes? One of my greatest sources of amusement lately has been the spectacle of a Tolstoyan non-resistant shouting for war and a philosophic anarchist supporting a government that wages it. These are times of stress that show what men really are.

"I want to repeat to you what a prominent Socialist said to the United States district attorney of the district in which he lived: You will want to live in — after the war is over. Don't forget to live and act during the war so that you can live here after it.

Yours very truly,

"WILLIAM BROSS LLOYD."

War Reports.

This has been a rather eventful week in the world's history. The most important, no doubt, is the completion of an armistice between Russia and the Central Powers, and probably the entering upon peace negotiations. The Russian government remains in the hands of the Bolsheviki's. It is reported that German and Austrian war prisoners in Russia will be released in a few days.

Russia seems to be on the verge of absolute dissolution. Siberia wants a separate government, with the capital at Omsk. Next in order is Crimea, with the seat of power at Sebastopol. Then follows

the Ukraina with the capital at Kiev. Fourth is Kuban in Caucasus, and fifth, Finland with Helsingfors.

On Friday, the 28th of November, began in Paris a meeting of all the allied powers. Russia was represented and so were the United States by Col. House. It is significant, however, that the United States representative withdrew early from the gathering. This may substantiate those stories which emanated from Washington to the effect that Col. House had definite instructions from President Wilson to inform the Allies that unless they could agree upon united action, the United States would withdraw from the conflict. It is very likely that Col. House delivered this message and immediately withdrew from the meeting. His non-participation in the deliberations may on the other hand have been for the reason that we do not stand pledged to refrain from entering upon a separate peace.

On Saturday the German Reichskanzler, Dr. Count Von Hertling, informed the Reichstag that Germany was ready to enter upon negotiations for peace with Russia. Regarding Poland, Lithuania and Kurland he said "We shall respect their right for self determination." He then recounted the achievements of the armies of the Central Powers which, he claims, have been successful in almost every undertaking. Our enemies, Count Hertling continued, pretend to fight against German militarism which, so they say, is destructive to the world's peace. Why, he asked, did the Italian premier, Sonnino, in his speech on August 28, brush aside the idea of a general disarmament as puerile. Clemenceau of France plainly stated it to be the object of the Allies, even after the close of the war, to exclude the Central Powers from any communication with other nations. Lloyd George had officially declared the war aim of the Allies to be the destruction of Germany's commerce, and that the war must be continued until this goal had been reached. In fact, the deception of Germany being the destroyer of the world's peace, said the Count, has now been completely unmasked and shown up by the secret correspondence found in Petersburg and now being published by the Russian government.

61 The Central Powers are carrying on a defensive war, as they have from the very beginning. They have succeeded in keeping the enemies from the soil of the fatherland and will do so in the future. The Central Powers are not responsible for the continuation of the war, and will insist upon the consequence of the butchery and destruction of property being borne by those responsible for it—the Allies.

A new war credit of 15 million marks was voted without opposition.

At the West front around Cambrai there have been strong German attacks made, which it is admitted, have pierced the British lines at at least several points. The meager reports coming to us from there would indicate that all is not as well as it might be. American soldiers, too, are reported to have been among the more than six thousand British troops captured. It is also reported that a great many British guns have been captured. It is not clear whether or not the Germans only attempt to drive General Haig back from the territory recently

captured or whether a serious attempt is contemplated to break through the British lines and repeat the tactics so successfully carried out at the Isonzo front against Italy. Not much news is available from the Piave front.

Lord Lansdown has created a great stir in England through the publication of a letter in which he openly advocates the entering upon peace negotiations on the part of the Allies. English diplomats say this may force England to enter upon negotiations upon the basis of a defeated nation.

With Russia determined for peace England cannot long delay entertaining Lord Lansdown's proposal.

62 Contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America.

ELMER B. SILVERS,
Assistant United States Attorney.

Endorsements: 3530 U. S. District Court. The United States of America vs. Carl Gleeser and Jacob Frohwerk. Indictment. Violation Espionage Act. Elmer B. Silvers, Asst. U. S. Attorney. A True Bill. J. M. Hall, Foreman. Filed April 23, 1918. John B. Warner, Clerk.

Witnesses: Oscar Schmitz, Rev. John Sauer, George Kumpf, J. A. Calvin, W. N. Grant, Frank Cremer, Arthur T. Bagley.

63-72 And afterwards, to-wit, on the 23rd day of April, 1918, the following entry appears of record, to-wit:

3530.

UNITED STATES

VS.

JACOB FROHWERK et al.

This day comes Francis M. Wilson, United States Attorney, also comes the defendant Jacob Frohwerk in his own proper person: thereupon said defendant being arraigned for plea says that he is not guilty as charged in the indictment herein; thereupon it is ordered that bond be fixed in the sum of \$5,000.00.

Now come Jacob Frohwerk, Emil Pinkert and Henry Ortmann and in open court acknowledge themselves to be indebted to the United States of America in the sum of \$5,000.00 to be levied of their goods and chattels, lands and tenements, conditioned that the said Jacob Frohwerk shall personally appear before this court from day to day and term to term as may be ordered by this court and not depart without leave of this court, otherwise to remain in full force and effect.

* * * * *

73 In the District Court of the United States for the Western
Division of the Western District of Mo.

THE UNITED STATES

VS.

JACOB FROHWERK.

Demurrer to Indictment.

Now comes Jacob Frohwerk, the defendant in the above cause, and demurs to the Indictment and to each count thereof for the following reasons:

First. That said indictment and each count thereof fails to state any cause of action or any crime known to the Constitution and laws of the United States.

Second. And for further cause of demurrer specially stated, the defendant states:

That neither the said indictment or any count thereof sets forth any violation of the Act of June 15, 1917.

That the said Section 3 of the said Act 1, under which said indictment professes to have been drawn, provides that "whoever, when the United States is at war, shall wilfully make or convey *false reports* or *false statements with intent* to interfere with the operation or success of the military or naval forces of the United States or to promote the success of its enemies and whoever, * * * shall wilfully cause or attempt to cause insubordination, disloyalty, * * * shall be punished," etc. (Italics by defendant.)

74 There is no charge that said Articles were false; nor is it shown nor alleged how or in what manner said Articles could defeat "military or naval forces of the United States"; how they could promote the success of its enemies, or "obstruct recruiting or enlistment."

In brief there is nothing shown that the said publication was not legitimate and proper. Comments on public and important matters, even though it should appear any of them were unfounded or an error as to conclusions or deductions. Nor is there any allegation of criminal intent.

Third. *The said act of June 15th, 1917, is unconstitutional and therefore void, because it seeks to make many acts which are treason by the Constitution, only an ordinary felony.*

That said Act (Section 1) makes provision for persons who go upon, or in any way obtain certain information, or do certain other acts therein named shall be guilty as therein stated.

And (Section 2) any person who does certain other acts in procuring information shall also be guilty.

The whole tenor of the act shows that the acts therein are prohibited, and made criminal, solely if obtained to the injury of the United States, by being communicated to the public enemy.

Therefore said acts constitute the person, a spy, condemned under military law, and if by citizens and the information is sent, or at-

tempted to be sent, is an overt act and constitutes the crime of treason under the last clause of Article III, Section Three of the Constitution.

It is "adhering to their enemies, giving them aid and comfort." Hence, these and some other provisions, being treason by the Constitution, Congress can make them nothing else. And said
75 sections and provisions are so blended that all must fall.

And the publications set forth in the different counts of the indictment are not and cannot be made to come within the provisions and terms of other parts of said Espionage Act.

And said act has heretofore through oversight or otherwise, been perverted to purposes unwarranted by its terms.

Fourth. That the said Act is unconstitutional for the reason that on the Revolution all powers of government descended to and vested in the several States; that the Constitution of the United States consists of specified and named powers, and all not so delegated are expressly reserved to the States respectively. But no power whatever was so delegated to the United States, or prohibited to the States over speech and press; nor is it "necessary and proper" to any express power, more especially as its attempted exercise would deprive the State of one of its police powers reserved to the several States.

Next, not being so delegated, all power over the press and speech, together with religious freedom is reserved to the several States for greater security. And is expressly prohibited to the United States by the First Amendment.

Fifth. The first count is for conspiracy. In the charging part it fails to set out the particulars—the time, place, scope and object of the alleged agreement and conspiracy. And this failure and fatal defect is not aided by the subsequent allegation of the claimed overt acts.

Sixth. The said indictment sets forth more than one alleged crime. It sets forth in the first count certain alleged overt acts consisting of certain publications. It then founds a number of counts upon these separate articles thus defining more than one
76 crime in the same indictment.

Seventh. The indictment sets forth in one count more than one article. Each separate publication, if a crime, is a separate offense in and of itself, and therefore must be stated in a separate count.

Eighth. The said indictment sets forth no criminal intent, assuming the power over press and speech it could only apply where in the publication there is a criminal intent, and not to publications, even though objectionable, without there was such criminal intent.

Ninth. That said indictment and each count thereof is fatally defective and states no offense for other causes and reasons.

Wherefore, the defendant prays judgment that he go hence without day and for costs.

JOS. D. SHEWALTER,
Attorney for Defendant.

- 77 And afterwards, to-wit, on the 4th day of June, 1918, the following Order was filed and entered of record, to-wit:

In the District Court of the United States for the Western Division of the Western District of Missouri.

Order.

It is ordered by the court that the Clerk of the United States District Court and the Jury Commissioner for the Western District of Missouri proceed forthwith to draw the names of forty (40) qualified persons residents and citizens of the Western Division of the Western District of Missouri, to serve as petit jurors for the April term of the United States District Court for the Western Division of the Western District of Missouri, for the year 1918.

It is further ordered by the court that the clerk of said court issue venire for said petit jurors to report for service at 9 o'clock A. M. on Tuesday the 25th day of June, 1918.

FRANK A. YOUMANS, *Judge.*

- 78 And afterwards, to-wit, on the 24th day of June, 1918, the following entry appears of record, to-wit:

3530.

UNITED STATES

VS.

JACOB FROHWERK.

This day comes Francis M. Wilson, United States Attorney, also comes the defendant in his own proper person as well as by his attorney J. D. Shewalter; thereupon defendant files a motion to dismiss the indictment; thereupon said motion to dismiss and the demurrer heretofore filed herein are argued and submitted to the court and the court being fully advised in the premises doth overrule said motion to dismiss and said demurrer, to which rulings of the court defendant at the time excepted; thereupon further proceedings are suspended until tomorrow morning.

Said Motion to Dismiss the Indictment, filed June 24, 1918, is in words and figures as follows, to-wit:

79 In the District Court of the United States for the Western Division of the Western District of Missouri.

No. —.

UNITED STATES

VS.

JACOB FROHWERK.

Now comes the Defendant, and appearing for the purposes of this motion only, and saving and excepting all objections, moves the Court to dismiss the indictment, and to strike the cause from the Docket, for the following reasons:

1. The overt act set forth in the first count of the Indictment, is founded on Section 3, Act of June 15th, 1917, and the remaining Counts are founded on the said section of the said Act.

That said Section has been revised, re-enacted, and forms a part of the Act approved May Twenty-first, 1918, whereby the said Act, upon which the Indictment is founded, together with the penalty therein prescribed, ceases to exist.

That by the last Act, Congress intended to legislate, and in fact did legislate, anew on the whole subject of said Section 3, Act June 15, 1917, and by a substitute Statute, embracing the whole of the former section, and other offenses, substituted a new law, covering the entire subject, as set forth in said Section 3, now known as the Act of May 21, 1918. Therefore, there can not exist two laws on the same subject, and the last law alone now exists.

Wherefore, defendant can not be further prosecuted under the old law, as it is now merged in the new; nor can he be prosecuted
80 under the new Act, because the indictment is not founded thereon, and it only dates from approval, and so was not in force at the date of the alleged offenses.

All of the above is manifest from the Act of May 21, 1918. Its title is: "An Act to Amend Section 3," etc. It provides that said Section of the Act of June 15, 1917, "be, and the same is hereby amended to read as follows," thereby substituting one law for the old law upon which the Indictment is founded. And this is made clear by the absence of any repealing clause, thus showing an intention to substitute a new law, covering the entire scope of the old, with additional offenses.

2. There can exist no law to be enforced without a penalty. A new or a substituted penalty is created by the Act of May 21, 1918, and is the only one existing. Defendant can not be punished under the substituted penalty, because it only exists by virtue of the new law; that it is the same as the old, is immaterial, since, as said, it exists only by the new law.

Wherefore, the defendant prays that the Indictment be dismissed, and the cause stricken from the docket.

J. D. SHEWALTER,

Attorney for Defendant.

[Endorsed:] Motion to dismiss.

81 And afterwards, to-wit, on the 25th day of June, 1918, the following entry appears of record, to-wit:

3530.

UNITED STATES
vs.
JACOB FROHWERK.

This day comes Francis M. Wilson, United States Attorney, also comes the defendant in his own proper person as well as by his attorney J. D. Shewalter, Esq.; thereupon said defendant files a motion to quash the panel of jurors, which motion was by the court overruled; thereupon said defendant files an objection to pleading to the indictment; thereupon said defendant being arraigned for plea stands mute and refuses to plead to the same; whereupon on motion of the court it is ordered that a plea of not guilty be entered as to each of the thirteen counts of the indictment. Thereupon defendant files an application for a continuance, the same was argued and submitted to the court and the court being fully advised in the premises overrules the same, to which ruling of the court defendant at the time excepts; thereupon it is ordered that a jury come, to-wit:

| | | |
|-----------------|------------------|-----------------|
| L. J. Baquet, | J. E. Bronaugh, | Jas. Harkins, |
| T. S. Broadbus, | Wade Brookshire, | Bedford Hudson, |
| C. M. Jones, | Robt. H. Land, | Elmer Mullins, |
| H. V. Johnson, | H. M. McMullin, | W. H. Pugh, |

twelve good and lawful men who are duly empanelled and sworn to well and truly try the issues joined; thereupon the hour of adjournment having arrived further proceedings are suspended until tomorrow morning.

It is ordered by the court that during the trial of this case the jury will be in the custody of the Marshal, who will provide them with suitable quarters and meals during that time.

82 Said Motion to Quash Panel of Jurors, Objection to Pleading and Application for Continuance are in words and figures as follows, to-wit:

83 In the United States District Court, Western District, Western Division of Mo., at Kansas City, Mo.

UNITED STATES
vs.
JACOB FROHWERK.

The defendant objects to the swearing or impanneling a jury and moves to quash the alleged panel for the reason that the same was not legally ordered drawn & summoned.

JOS. D. SHEWALTER,
Atty. for Deft.

84 In the District Court of the United States for the Western Division of the Western District of Missouri.

No. —.

UNITED STATES

vs.

JACOB FROHWERK.

Defendant, Jacob Frohwerk, being called on to plead to the Indictment, stands mute, and declines to plead further, for the following reasons:

1. Defendant filed a demurrer to the Indictment, and each Count thereof; and while the same was pending, the Court made an order touching the merits of the case, over the objection of the Defendant.

2. That said Demurrer was argued at length by defendant's attorney, going into the validity of the Indictment for inherent defects therein, and also as to the Constitutionality of the Act of June 15, 1918, known as the Espionage Act; that the defendant has the Constitutional right to be heard by counsel, and this right embraces a due consideration of such hearing. Immediately upon the conclusion of the argument of defendant's attorney, or about five minutes thereafter, the Court produced and read a written opinion of perhaps twenty-five (25) pages, which, of course, was prepared in advance, whereby defendant was deprived of his Constitutional right. The defendant respectfully asks that such Opinion be filed that it may be made a part of the record by Bill of Exceptions, if necessary.

JACOB FROHWERK.

Attorney for Defendant.

85 In the District Court of the United States for the Western Division of the Western District of Missouri.

No. —.

UNITED STATES

vs.

JACOB FROHWERK.

Now comes the defendant, and in the form of a Motion Affidavit and Application for a continuance, states that he is not prepared at the present time to go into the trial of this cause; that by the Constitution he is entitled to compulsory process for witnesses, of which he would be deprived by being forced into trial at this time; that he has witnesses who reside at a distance, and whose testimony it will be necessary for him to procure by deposition, or by personal attendance, if it can be arranged;

That he filed, on the — day of June, 1918, an extended demurrer to the Indictment, which he had reason to believe, and did believe would be sustained; that the same was heard upon June Twenty-fourth, and immediately after an extended argument by his counsel, orally and by a printed brief which through courtesy had been some days before *had been* sent to the judge) was promptly overruled by the Court in a long written opinion, or in two written opinions. That there being no issue of fact pending, he had no right nor authority he is advised to issue subpoenas in that condition of the record, it pending upon an issue of law; that said Demurrer was overruled finally, late on the evening of the Twenty-fourth of June, 1918, he believes between five and six o'clock, when Court immediately adjourned, and thus, to force him into trial, would deprive him of his Constitutional right of having process for the attendance of witnesses;

That it is necessary for him to take the deposition of one, Carl Gleeser, who was the owner, proprietor, editor, printer, and distributor of said paper; that said Gleeser is now in prison, at Leavenworth, Kansas.

86 Wherefore, the defendant and alliant, asks that this cause be continued until the next term, that he may have the opportunity to procure testimony necessary to his defense, and that he may not be deprived of the Constitutional rights secured to him by the Constitution.

JACOB FROHWERK, *Defendant*.

STATE OF MISSOURI,

County of Jackson, ss:

Jacob Frohwerk, the defendant in the above entitled cause, being first duly sworn, upon his oath deposeth and says: That he has read the above and foregoing Motion, Affidavit and Application for a continuance, and that the matters and facts therein stated are true, to the best of his knowledge and belief.

JACOB FROHWERK.

Subscribed and sworn to before me, this Twenty-fifth day of June, A. D. 1918.

[SEAL.]

CHARLES H. WOLF,
Notary Public within and for Jackson
County, Missouri.

My Commission Expires: January 5, 1920.

87 And afterwards, to-wit, on the 26th day of June, 1918, the following entry appears of record, to-wit:

3530.

UNITED STATES

VS.

JACOB FROHWERK.

This day again comes Francis M. Wilson, United States Attorney, also comes the defendant in his own proper person as well as by his attorney J. B. Shewalter, Esq.; thereupon evidence on behalf of the government is heard, at its conclusion defendant presents demurrers to same which said demurrers were argued and submitted to the court and the court being fully advised in the premises overrules the same, to which ruling of the court defendant at the time excepts; thereupon evidence on behalf of the defendant is heard and not being concluded at the hour of adjournment further proceedings are suspended until tomorrow morning.

88 And afterwards, to-wit, on the 27th day of June, 1918, the following entry appears of record, to-wit:

3530.

UNITED STATES

VS.

JACOB FROHWERK.

This day again comes Francis M. Wilson, United States Attorney, also comes the defendant in his own proper person as well as by his attorney J. D. Shewalter, Esq.; thereupon the hearing of evidence on behalf of the defendant was resumed and not being concluded at the hour of adjournment further proceedings are suspended until tomorrow morning.

89 Afterwards, to-wit, on the 27th day of June, 1918, a Motion for Subpoena Duces Tecum was filed in words and figures as follows, to-wit:

In the United States District Court, Western District, Western Division of Mo.

UNITED STATES

VS.

JACOB FROHWERK.

The defendant states he is entitled to the Constitutional right of process for witnesses; that he desires the presence & testimony of

August Seested, Manager of the Kansas City Star and Times a daily paper—morning and evening—of large circulation published at Kansas City, Mo. and also of Ralph Stout—the Editor of said paper together with certain issues of said papers printed since the declaration of war as set forth in the order attached being for certain letters of Ex President Roosevelt an editorial writer on said paper; that defendant has no means of identifying or stating the exact date so as to be able to specify them more particularly (except their general tenor was a severe criticism of the war policy or measures of the administration, but by the description above the two witnesses can easily select and find said papers.

Defendant also asks that said witnesses be required to bring with them to also be used as evidence a copy of the Star of date May 13th, 1917, 6 o'clock Edition containing the speech of President Wilson saying among other things We have no grievances of our own to fight for. That all of said papers and evidence is material.

Wherefore he asks that the order attached be issued for the first named papers and that there be added thereto the last described paper.

JACOB FROHWERK,

By J. D. SHEWALTER,

His Attorney.

90 And afterwards, to-wit, on the 28th day of June, 1918, the following entry appears of record, to-wit:

3530.

UNITED STATES

VS.

JACOB FROHWERK.

This day again comes Francis M. Wilson, United States Attorney, also comes the defendant in his own proper person as well as by his attorney J. D. Shewalter, Esq.; thereupon the hearing of evidence on behalf of the defendant was resumed and concluded; thereupon arguments of counsel are made and the said jury after hearing the instructions of the court retire to consider what verdict, if any, they shall render in the premises; thereupon said jury after due deliberation returns into court the following verdict, to-wit:

We, the jury, find the defendant guilty as charged in the first count of the indictment herein.

BEDFORD HUDSON, *Foreman.*

We, the jury, find the defendant guilty as charged in the second count of the indictment herein.

BEDFORD HUDSON, *Foreman.*

We, the jury, find the defendant guilty as charged in the third count of the indictment herein.

BEDFORD HUDSON, *Foreman*.

We, the jury, find the defendant guilty as charged in the fourth count of the indictment herein.

BEDFORD HUDSON, *Foreman*.

We, the jury, find the defendant guilty as charged in the fifth count of the indictment herein.

BEDFORD HUDSON, *Foreman*.

We, the jury, find the defendant guilty as charged in the sixth count of the indictment herein.

BEDFORD HUDSON, *Foreman*.

91 We, the jury, find the defendant not guilty as charged in the seventh count of the indictment herein.

BEDFORD HUDSON, *Foreman*.

We, the jury, find the defendant guilty as charged in the eighth count of the indictment herein.

BEDFORD HUDSON, *Foreman*.

We, the jury, find the defendant guilty as charged in the ninth count of the indictment herein.

BEDFORD HUDSON, *Foreman*.

We, the jury, find the defendant guilty as charged in the tenth count of the indictment herein.

BEDFORD HUDSON, *Foreman*.

We, the jury, find the defendant guilty as charged in the eleventh count of the indictment herein.

BEDFORD HUDSON, *Foreman*.

We, the jury, find the defendant guilty as charged in the twelfth count of the indictment herein.

BEDFORD HUDSON, *Foreman*.

We, the jury, find the defendant guilty as charged in the thirteenth count of the indictment herein.

BEDFORD HUDSON, *Foreman*.

thereupon this case is continued for sentence until tomorrow morning and defendant allowed to depart on his present recognizance.

92 And afterwards, to-wit, on the 29th day of June, 1918, the following entry appears of record, to-wit:

3530.

UNITED STATES

VS.

JACOB FROHWERK.

This day again comes Francis M. Wilson, United States Attorney, also comes the defendant in his own proper person as well as by his attorney, J. D. Shewalter; thereupon on motion of the District Attorney that sentence now be pronounced upon said defendant, the defendant was called upon to state reasons, if any he has, why sentence should not now be pronounced and none being stated and the court being fully advised in the premises, it is ordered that said defendant be confined in the United States Penitentiary at Leavenworth, Kansas; for a period of ten (10) years on the first count of the indictment herein. It is further ordered that said defendant pay a fine of five hundred (500) dollars together with the costs of this action on the first count of the indictment; it is further ordered that said defendant be confined in the United States Penitentiary for a period of ten (10) years on each of counts 2, 3, 4, 5, 6, 8, 9, 10, 11, 12 and 13 of the indictment; the imprisonment, however, imposed on counts 2, 3, 4, 5, 6, 8, 9, 10, 11, 12 and 13 to run concurrently with that imposed on count one (1) of indictment.

It is further ordered that the Marshal of this district take and deliver the body of him the said Jacob Frohwerk into the custody of the Warden of the United States Penitentiary at Leavenworth, Kansas, for safe keeping for a period of ten (10) years.

It is further ordered that the clerk of this court make a certified copy of this judgment and sentence together with a writ of
93 commitment in due form and deliver the same to the Marshal for execution.

It is further ordered that bond for appeal be fixed in the sum of \$7,500.00 and further that defendant be allowed 60 days in which to file Bill of Exceptions.

Now comes defendant by his attorney and files his petition for a writ of error, which petition is duly sustained and a writ of error allowed to the Supreme Court of the United States.

Said Petition for Writ of Error, filed June 29, 1918, is in words and figures as follows, to-wit:

94 In the District Court of the United States within and for the Western Division of the Western District of Missouri.

No.—.

UNITED STATES OF AMERICA, Plaintiff,

vs.

JACOB FROHWERK, Defendant.

Petition for Writ of Error.

Your petitioner states that he has this day been sentenced by the Court in pursuance of the verdict of the jury rendered upon yesterday, the 28th day of June, A. D. 1918, to imprisonment in the penitentiary at Leavenworth for ten years on the first count, and for ten years and a fine of \$500.00 on each of the subsequent counts, all to run concurrently. He hereby prays the Court that a writ of error from the said sentence and judgment be allowed and be issued transferring said cause to the Supreme Court of the United States, for alleged errors in the proceedings and judgment, in pursuance to and in conformity with the regulation of the statutes in such case made and provided, returnable to the next succeeding or October Term of the said Court.

For all of which your petitioner respectfully prays.

JACOB FROHWERK,

By J. D. SHEWALTER,

Attorney for Defendant.

95 And afterwards, to-wit, on the 1st day of July, 1918, the following entry appears of record, to-wit:

3530.

UNITED STATES

vs.

JACOB FROHWERK.

Now comes defendant by his attorney and files his assignment of errors.

Now comes defendant and presents his bond for appeal in the sum of \$7,500.00 signed by himself as principal and by the United States Fidelity and Guaranty Company as surety, which said bond is approved and ordered to act as a supersedeas herein and ordered filed and made a part of the record herein.

Whereupon Citation is duly issued and signed by the Court admonishing the United States of America to be and appear before the Supreme Court of the United States 30 days from and after the day said citation bears date.

Also comes defendant and files petition for writ of error.

Said assignment of Errors, Bond for Appeal and Petition for Writ of Error, filed July 1, 1918, are in words and figures as follows, to-wit:

96 In the District Court of the United States for the Western Division of the Western District of Missouri.

UNITED STATES OF AMERICA, Plaintiff,

vs.

JACOB FROHWERK, Defendant.

Now comes the above named defendant and for assignment of errors in the proceedings in the above entitled cause alleges:

1st. The Court erred in the overruling of the demurrer to the indictment herein.

2nd. The indictment charges no offense for the reason among others that the Act of Congress on which the indictment purports to be founded is void for the reason that Congress has no power whatever over speech or press; none is delegated to the United States; and power is not denied to the States wherefore all power over the subject is reserved to the several states, with other police power and for greater security is expressly denied by Amendment One to the United States hence Congress was without any power whatever over the subject.

3rd. Because the published matters set forth as the basis of the indictment were the exercise of the freedom of the press and speech which are guaranteed by the Constitution.

4th. The indictment fails to charge an offense even under the statute relied on therein.

5th. The first count of the indictment undertakes to charge the defendant with a conspiracy in connection with another person named therein without alleging the essential felonious intent
97 to do the act charged, and fails to charge that the statements were false; that is the statute makes one thing criminal, the indictment seeks to make another, omitting essential ingredients of the offense.

The indictments fail to allege in the charging part the agreement to form a conspiracy and fails to set forth either generally or specifically the terms and purport of such agreement; that is it fails wholly to set forth the agreement constituting the conspiracy and this radical defect is not and cannot be cured by reference to the over-acts alleged to have been done in the furtherance of the conspiracy.

6th. The Act of Congress is only directed to false statements and reports made with criminal intent. The indictment nowhere charges in either count the publications were false or untrue or made with criminal intent.

7th. The Court erred in overruling a motion to dismiss the indictment and strike cause from the docket. The act of May 21st, 1918, was a revision auxiliary to the act of June 15, 1917, completely

covered the subject matter—it was a new law and did not repeal but embodied the old law with other provisions.

8th. The Court erred in its judgment in that it subjected the defendant to a double punishment for the same offense one under the first count as conspiracy and the subsequent counts as separate and specific acts thus inflicting two punishments for the same publication.

9th. The Court erred in depriving the defendant of his constitutional right to a fair and impartial trial in that immediately upon the filing of a demurrer the Court ordered a venire for a jury. An issue of law alone pending the Court could not order a jury to try an

98 issue of facts before a plea of not guilty was filed and before it was known whether it was necessary to impanel a jury.

Thus the Court ordered a jury to try an issue which was not pending and was tantamount to a decision of the issue of law without hearing.

Then there was error in calling a jury the day succeeding that on which the demurrer was determined at a late hour the day before thus forcing the defendant to an immediate trial and after the defendant because of this Court stood mute refusing to plead and the Court had directed a plea of not guilty. Thus a plea of not guilty being entered a trial was ordered at once over protest of defendant's counsel with no time allowed to secure witnesses and prepare for trial.

10th. The Court erred in refusing the written application of the defendant during the progress of the trial for a subpoena duces tecum for Ralph Stout and Augustus Seestead as stated in the motion therefor which order the Court refused to make unless defendant's counsel would state to the Court what he expected to prove by the witnesses and the Court could see it was material. The right to process for witnesses is absolute and without conditions and the Court has no power either to require a statement of the proof proposed or a right to pass upon its materiality until offered.

11th. There was error in refusing to allow proof and also in refusing instruction Number — defining what constituted neutrality neither under the power to regulate commerce with foreign nations or by any other clause of the Constitution nor by the law of nations for the United States before a declaration of war by them give license to ship contraband or afford such shipments any protection or recognition on land or sea. Some of the articles referred to and discussed this matter and whether they were lawful comments depended upon a true construction of this matter.

12th. The Court erred in refusing the instruction as required by the defendant Number — as shown by the bill of exceptions.

13th. The Court committed error in refusing a peremptory instruction to find defendant not guilty on the first count; there is no evidence of a conspiracy; and the overt act is not admissible to prove the agreement but only of the commission of the act carrying out the agreement where there is evidence going to prove the last.

Defendant should have been acquitted on the second and subsequent counts as there was no proof whatever that he did prepare,

print, publish and circulate said articles or paper; but the evidence is all to the effect that he had nothing to do with printing, publishing and circulating and only prepared some of the articles subject to the supervision of his employer.

14th. The Court erred in its charge to the jury herein in the following respects as shown by the exceptions at the time, to-wit:

1st. As to the effect and true meaning as the First Amendment to the Constitution.

Second. As to the instruction which places this amendment which is a prohibition on the exercise of any power over the subject on a par with other clauses such as to raise and support armies, declare war and so on and authorizes legislation in aid of these and other objects by controlling the press since said Amendment is absolute and prohibits the exercise of all power whatever equally over religion, speech and press.

Third. There was error in giving the instruction or instructions declaring the indictment is founded on the second Clause of Section 3 of Act 1917 as that clause does not apply to publications. The publication charged can only be under the first clause.

100 Fourth. There is error in the instruction which authorize a verdict of guilty on the first and also the second and subsequent counts. The overt acts set forth in the first count and which were necessary to conviction on that count are set forth in the second and subsequent counts as each substantive crimes. Thus he was convicted twice for the same act.

Fifth. There was error in the instruction as to the second and subsequent counts that defendant was guilty if he "prepared" any of the articles. The charge in all these counts was "he did prepare, print, publish, distribute and circulate." This last constituted the crime charged. And as these counts did not charge a conspiracy the simple preparation of any of the articles by the defendant and handing them to his employer for reception, rejection or correction was not an offense under the Act June 15, 1917, known as the Espionage Act.

Sixth. There was error in the instruction which declared a conspiracy was necessary and an agreement therefor but afterwards that the overt act might be considered on the proof of the agreement. The establishment of the agreement or conspiracy and the overt act are separate and distinct and neither the pleading nor the proof can aid or dispense with the other. There was error in the instruction told the jury there must be an intention of purpose. The intention of purpose must not be as to the mere act of the publication but there must be a criminal intent in the publication. "Wilful" is no more than intention that is not by accident; whereas while to constitute a felony the act must not only be wilful, that is not only by accident but there must also be a criminal intent. Besides the Espionage Act expressly requires both.

Seventh. The Court properly told the jury they must find a conspiracy to commit one or more of the overt acts while apart
101 from the overt act there is no evidence whatever of a conspiracy.

Eighth. The Court tells the jury that the intent to commit the

unlawful act must be formed at the time or prior to the act but there is error as there is no allegation in either count of the indictment of such criminal intent though required by the statute.

Ninth. There was error in conflicting instructions as the Court charged the overt act consisted in the printing while other instructions are based on the last clause of section 3 which does not apply to printing but to *to* physical acts.

Tenth. There was error in the instruction on reasonable doubt. The reasonable doubt is not a mere possibility of innocence but a real and substantial doubt as to guilt.

Eleventh. There was error in the Court's supplemental or oral instructions. There is no evidence of a formation of a conspiracy as to any of the acts charged in the overt act that the defendant either printed or circulated and therefore if the conspiracy can be proved by the overt act the proof of the overt act must be as broad as the conspiracy.

Twelfth. The sentence punishment — excessive and cruel.

Wherefore the defendant prays the said judgment and conviction be reversed and set aside.

JACOB FROHWERK,

By JOS. D. SHEWALTER,

Attorney for Defendant.

102 In the District Court of the United States within and for the Western Division of the Western District of Missouri.

No. —.

UNITED STATES OF AMERICA, Plaintiff,

vs.

JACOB FROHWERK, Defendant.

Bond.

Know all men by these presents, That we, Jacob Frohwerk as principal, and The United States Fidelity & Guaranty Company, a corporation duly incorporated, as surety company under the laws of the State of Maryland, and duly admitted to do business in the State of Missouri, as surety, owe and stand indebted to the United States of America in the sum of Seven Thousand Five Hundred (\$7,500.00) Dollars, true and lawful money of the United States. To the payment of which we bind ourselves, our heirs, and successors, well and fully to be paid.

Upon this condition, however: That whereas the above bound Jacob Frohwerk has this day been convicted and sentenced in the District Court of the United States for the Western Division of the Western District of Missouri, of an offense against the laws of the United States, on the first count, of conspiracy in connection with one Carl Gleeser to violate Sections 3 and 4 of the Act of Congress approved June 15, 1917, usually known and called the Espionage

Act, and also has been convicted under the Third Section of the said Act in that he did wilfully and feloniously cause and attempt to cause insubordination, disloyalty, mutiny and refusal of duty in the military and naval forces of the United States of America, and has been punished upon the first count at imprisonment in the penitentiary at Leavenworth for a period of ten years, and to pay a fine of Five Thousand Dollars; and upon the second and other counts has been sentenced on each to a like imprisonment of ten
103 years, all to run concurrently.

Whereas, the said Jacob Frohwerk is about to sue a writ of error in due form, taking the cause, judgment and conviction aforesaid to the Supreme Court of the United States.

Now therefore, if the said Jacob Frohwerk in proper person shall be and appear in the Supreme Court of the United States, sitting in Washington, at the next term thereof, or at any other time as said Court by its orders or rules shall require, and shall, on the judgment of the said Court, render himself up as required by the judgment of the Supreme Court, then and in that case this obligation shall become null and void, otherwise it shall remain in full force and virtue.

In witness whereof, the said Jacob Frohwerk has hereto set his hand and seal, and the said Corporation has also duly signed the same and caused it to be attested by its Secretary or other proper officer, with the seal thereof, this the 29th day of June, A. D. 1918.

[CORPORATE SEAL.]

JACOB FROHWERK, *Principal*,
UNITED STATES FIDELITY
& GUARANTY CO.,

By W. R. TAYLOR,

Attorney in Fact, Surety.

Approved and ordered to serve as supersedeas.

FRANK A. YOUNG, *Judge*.

104 In the District Court of the United States within and for the Western Division of the Western District of Missouri.

No. —.

UNITED STATES OF AMERICA, Plaintiff,

vs.

JACOB FROHWERK, Defendant.

Petition for Writ of Error.

Now comes the above named defendant and prays a writ of error from the judgment of sentence in the above entitled cause of the 25th day of June, 1915, whereby he was sentenced to imprisonment in the Federal Penitentiary at Leavenworth, State of Kansas, for the term of Ten years on the first count and Ten years on each of the

succeeding counts all to run concurrently and also to pay a fine of Five Hundred Dollars on the first count of the indictment and offers herewith an assignment of errors in the proceedings of said cause also tenders herewith a good and sufficient bond as by the Court required and approved and prays for the issuance of a writ of error from the Supreme Court of the United States to have said judgment reviewed and the errors of the said United States District Court be corrected.

JACOB FROHWERK,

Defendant.

JOS. D. SHEWALTER,

Attorney for Defendant.

105 And afterwards, to-wit, on the 18th day of July, 1918, the following entry appears of record, to-wit:

3530.

UNITED STATES

VS.

JACOB FROHWERK.

This day comes defendant and files praecipe for transcript.

Said Praecipe for Transcript, filed July 18, 1918, is in words and figures as follows, to-wit:

106 In the District Court of the United States, Western District, Western Division (on Appeal) Missouri.

UNITED STATES OF AMERICA

VS.

JACOB FROHWERK.

To the Clerk of the above district court:

In compliance with Rule 8 Supreme Court of the United States the plaintiff in error and his attorney herewith file with the Clerk a praecipe indicating the portions of the record to be incorporated in the transcript of the record on the Writ of Error.

1st. The indictment as returned by the grand jury omitting from the first or conspiracy count where it charges the overt act by setting out certain publications, the said publications, and stating "being the publications successively set forth and copied herein in the second and subsequent counts."

2nd. The plea in abatement and the order overruling the same.

3rd. The order of the court setting the demurrer for hearing for June 24, 1918.

4th. The order of the court for a venire for a jury to be returned June the 25th.

5th. The order filing the motion to dismiss the indictment and strike cause from the docket filed June 24, 1918, and the order of the court overruling same.

6th. The order or judgment of the court overruling the demurrer. Record overruling petition or motion for continuance.

7th. The refusal of the defendant to plead to the indictment for the reason the jury had been summoned before such plea and the order of the court, defendant standing mute and refusing to plead, directing a plea of not guilty to the first count. The record should show the arraignment of the defendant on each subsequent count and then state "The defendant standing mute the court ordered a plea of not guilty to be entered to each and every count which

107 was accordingly done," or other proper statement of the facts.

8th. The order empaneling the jury and the acceptance of the first twelve by the Government and also by the defendant subject to his objections to the whole panel.

9th. The final submission of the cause after argument and instructions to the jury, and the verdict. Then the judgment and sentence.

10th. The application for a Writ of Error setting forth the filing of the two applications and the filing of the Assignment of Error with the second application on July the 1st.

11th. The order allowing the Writ of Error, bond and super-sedeas and leave to file Bill of Exceptions.

Witness our hands this, the 18th day of July, 1918.

JACOB FROHWERK,

Plaintiff in Error,

J. D. SHEWALTER,

Counsel,

The defendant in error, The United States, hereby acknowledges service of a copy of the above.

FRANCIS M. WILSON,

United States Attorney,

July 18, 1918.

108 And afterwards, to-wit, on the 23rd day of July, 1918, an Order Extending Time to File Bill of Exceptions was filed and entered of record in words and figures as follows, to-wit:

District Court of the United States, Western District of Missouri,
Western Division.

No. —.

THE UNITED STATES OF AMERICA

vs.

JACOB FROHWERK.

In consideration of the application of the defendant it is ordered that the time within which to file his bill of exceptions in the above entitled cause be, and is hereby extended until the first day of September, 1918.

FRANK A. YOUNG,
United States District Judge.

109 And afterwards, to-wit, on the 23rd day of July, 1918, an Order Extending Time to File Transcript was filed and entered of record in words and figures as follows, to-wit:

United States Supreme Court.

JACOB FROHWERK, Plaintiff in Error,

vs.

THE UNITED STATES OF AMERICA, Defendant in Error.

On consideration of the application of plaintiff in error, it is ordered that the time within which he may docket the above case and file the record thereof with the Clerk of the United States Supreme Court be, and is hereby, enlarged and extended to September 1, 1918.

FRANK A. YOUNG,
United States District Judge.

110 And afterwards, to-wit, on the 26th day of July, 1918, the following entry appears of record, to-wit:

3530.

UNITED STATES

vs.

JACOB FROHWERK.

This day comes the Government and files pra-cipe for transcript. Said Pra-cipe for Transcript, filed July 26, 1918, is in words and figures as follows, to-wit:

111 In the District Court of the United States for the Western Division of the Western District of Missouri.

UNITED STATES OF AMERICA

v.

JACOB FROHWERK.

Request for Preceipe.

To the Clerk of the above District Court:

The Government requests the following entries be included in the transcript of record on the Writ of Error in case of United States v. Jacob Frohwerk.

1. Plea in abatement and affidavit for change of venue.
2. Certification by Judge Van Valkenburgh to Judge Sanborn of application for change of venue.
3. Order of court designating Judge Youmans as the trial judge in said case.
4. Complete copy of indictment in said cause.

SAM O. HARGUS,

Assistant United States Attorney.

112 And afterwards, to-wit, on the 29th day of July, 1918, the following entry appears of record, to-wit:

3530,

UNITED STATES

vs.

JACOB FROHWERK.

This day comes defendant and files Citation, service of which has been duly acknowledged by the U. S. District Attorney.

113 And afterwards, to-wit, on the 27th day of August, 1918, the following entry appears of record, to-wit:

3530,

UNITED STATES

vs.

JACOB FROHWERK.

This day comes defendant and files notice of his refusal to accept bill of exceptions prepared by the Judge.

Said Notice, filed August 27, 1918, is in words and figures as follows, to-wit:

114 In the Supreme Court of the United States.

No. —.

JACOB FROHWERK, Plaintiff in Error,

vs.

UNITED STATES OF AMERICA, Defendant in Error.

To Mr. John B. Warner, Clerk of the District Court of the United States for the Western Division of the Western District of Missouri:

You will not file, as a Bill of Exceptions, the paper prepared by Judge Frank A. Youmans, as a Bill of Exceptions, and Dated August 20, 1918; but will please preserve the same.

Said paper is not accurate as a Bill of Exceptions, and the Defendant can not accept it as such, since it omits practically all of the errors of which he complains, except those arising on the Demurrer, and possibly some motions. To be particular, said paper, in part, is defective in the following:

1. It sets forth the different motions substantially as set forth in the Defendant's Bill of Exceptions tendered, with the exception that said paper, as prepared by Judge Youmans, does not copy or call for copying said motions, but only states they were filed, which fact is shown by the record proper.

2. Said paper does not show that the opinion overruling the demurrer was in writing, but inferentially that it was oral, and at the conclusion of the oral argument; thus plaintiff in error loses one of his main contentions, that he was deprived of his constitutional right to be heard.

3. The Bill tendered by Defendant, or Plaintiff in Error, purports to set forth in narrative form, all of the evidence. It has not been pointed out wherein it omits any material part of the testimony of any witness; wherein it states any such testimony inaccurately, or wherein it does not set forth all of the evidence in pursuance of the rules of the Supreme Court. Yet, after the Judge has claimed
115 that such testimony is necessary to be set out, and has failed to point out wherein it has not been set out in fact, in the Bill tendered; nevertheless, in the Bill or paper prepared by the Judge, no evidence whatever is set forth, and the only statement of evidence, except that Defendant admitted writing certain articles is as follows:

"On the trial of said cause, the United States introduced testimony tending to prove all of the allegations in Counts 1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, and 13."

Thus, after the Judge claims it is necessary to set out all of the evidence to determine the exceptions raised in this respect, he sets out none whatever in the paper he has prepared. Thus leaving the de-

fendant with practically no Bill of Exceptions, and standing alone on the Indictment, the Demurrer, and possibly some Motions.

As said, this paper should be preserved in the office.

Unable to agree upon a Bill of Exceptions, you are directed to make out at once, under the Rules, a transcript of the Record, as it appears in your office, and as it appears in our praecipe, and especially to show, if not called for therein expressly, the Motion to have the Judge file his Written Opinion in the cause. Please attend to this at once.

Respectfully,

JOSEPH D. SHEWALTER,

Attorney for Plaintiff in Error.

116 And afterwards, to-wit, on the 29th day of August, 1918, the following entry appears of record, to-wit:

3530.

UNITED STATES

vs.

JACOB FROHWERK.

This day comes defendant and files amended praecipe for transcript.

Said Amended Praecipe for Transcript, filed August 29, 1918, is in words and figures as follows, to-wit:

117 In the District Court of the United States, Western Division of Missouri.

UNITED STATES OF AMERICA

vs.

JACOB FROHWERK.

To the Clerk of the District Court:

As an amended praecipe please make out an entire copy of the record including Demurrer all Motions and entries shown by the record.

J. D. SHEWALTER,

Atty. for Deft.

Aug. 29/18.

118 And afterwards, to-wit, on the 31st day of August, 1918, an Order Extending Time to File Transcript was filed and entered of record in words and figures as follows, to-wit:

119

In the Supreme Court of the United States.

JACOB FROHWERK, Plaintiff in Error,

vs.

THE UNITED STATES OF AMERICA, Defendant in Error.

It appearing that the transcript on writ of error in the above entitled cause cannot be filed in the appellate court within the time heretofore allowed, it is ordered that the time within which said cause may be docketed and the record thereof filed in said court, be, and is hereby, extended until September 15, 1918.

FRANK A. YOUMANS,
United States District Judge.

120 UNITED STATES OF AMERICA, *set:*

I, John B. Warner, Clerk of the United States District Court for the Western Division of the Western District of Missouri, do hereby certify the foregoing to be a full and true copy of the record as called for in the Amended Praecipe in case No. 3530, The United States vs. Jacob Frohwerk, and I further certify that the original Citation and Writ of Error are prefixed hereto and returned herewith.

In Witness Whereof, I have hereunto set my hand and affixed the seal of said court at my office in Kansas City, in said District, this 9th day of September, A. D. 1918.

[Seal of the United States District Court, Western Division,
Western District of Missouri.]

JOHN B. WARNER,
Clerk United States District Court.

121

In the Supreme Court of the United States.

No. 685.

JACOB FROHWERK, Plaintiff in Error,

vs.

THE UNITED STATES, Defendant in Error.

Now comes the Plaintiff in Error in the above-entitled cause, and, in pursuance of Rule 10, paragraph 9, hereby designates and files with the Clerk, the following statement of the points on which he intends to rely, and also of the parts of the record he thinks necessary to print, for the consideration thereof.

Points Relied On.

First. That the Sections of the Act of June 15, 1917, commonly called the Espionage Act, on which the Indictment is founded, are unconstitutional.

That on the Revolution, all powers of Government descended to, and vested in the several States; and that the Constitution of the United States consists only of specified and named powers, and all not so delegated, are expressly reserved to the States respectively. That no power over Press or Speech was delegated the United States, or prohibited to the States; nor is it "necessary and proper" to any express power, especially the attempted exercise would deprive the State of one of its police powers, expressly reserved by the Constitution to the State. And further, that the exercise of any such power is expressly prohibited to the United States by the First Amendment.

122 Second. That certain parts of said Act define offenses which, if committed by citizens, or persons owing temporary allegiance, constitutes and is treason under the Constitution. Wherefore, Congress can not declare the same to be an ordinary felony. And such parts of said Act are so interwoven with the Sections on which the Indictment is founded, that all are void.

Third. That said Act of June 15, 1917, commonly known and called the Espionage Act, does not prohibit or punish all criticism, statements and reports of the Government, but only undertakes to punish and make criminal such as are false, and further, made with the criminal intent therein declared.

Fourth. That Congress, by a New Act, dated May 21, 1918, revised the Sections of the Act of June 15, 1917, under which the Indictment is drawn, and re-incorporated the same into a new Act, covering the entire subject-matter of the old; without any saving-clause, as to pending Indictments. Wherefore, all prosecutions then pending under the former Act, fell, and became null and void, as there cannot exist two Acts of Congress covering the same subject-matter. That said Act of May 21, 1918, is not a repeal of the old Act, within the meaning of the Thirteenth Section of the Practice Act, so as to keep alive prosecutions then pending, but is an entirely new expression of the Legislative will over the same subject-matter, thus superseding the old law.

Fifth. A Demurrer tenders an issue of law, and not of fact. Therefore, there was error in directing a venire to be issued on June 4, 1918, just after the Demurrer had been filed, and making the venire returnable July 25, 1918, the day succeeding that on which the Demurrer was to be heard. Thus, the Court decided, as clearly as

123 if done in words, the issue of law, and denied the plaintiff in Error his right to be heard.

Sixth. The Defendant, now Plaintiff in Error, had the Constitutional right to a trial, and this implied and embraced a reasonable time in which to prepare for trial, after it was determined or decided that a trial on an issue of fact would be had. Hence, there

was error in overruling the demurrer late in the evening on June 24, 1918, and immediately forcing the defendant to trial the next morning, and instantly after pleas of not, guilty had been entered and in overruling and denying his motion, demanding his Constitutional right aforesaid.

Seventh. The defendant, now Plaintiff in Error, had the Constitutional right of compulsory process, for the attendance of witnesses. This process he demanded, both orally and in writing, which was denied, and he was required to state in advance what he expected to prove by the proposed witnesses.

Eighth. The defendant, now Plaintiff in Error, has the Constitutional right of an impartial hearing, which implies a hearing both upon issues of law and fact. His Demurrer to the Indictment, raising grave and important questions, was filed on June 4, 1918; it was set for argument and orally argued by his counsel on the Twenty-fourth day of June, 1918, citing numerous authorities, and immediately, upon its conclusion, as shown by the Record, the Court overruled his Demurrer, in a long written opinion, prepared in advance, of perhaps twenty-five (25) pages, which, together with the previous ordering of the Jury, deprived the defendant of his Constitutional right aforesaid.

Ninth. The Indictment, and neither Count thereof, stated any offense known to the law, and the Demurrer is proper and should be sustained. Plaintiff in Error cites and relies upon all the
121 grounds set forth in the Demurrer, but designates the following specially.

(a). On a charge of Conspiracy, it is necessary, in charging the crime, to allege an agreement for the unlawful purpose, stating "the time, place, scope and object of the alleged agreement and conspiracy." This the First Count totally fails to do, and is therefore fatally defective, and can not be aided by the subsequent allegation of alleged overt acts.

(b). The said Act of Congress of June 15, 1917, under which the Indictment is drawn, only makes criminal, "false reports or false statements," and these, if made, "with intent" therein alleged. The said Indictment, and each Count thereof, fails to allege that any of the articles were false reports or false statements; and all of said Counts fail to charge the criminal intent required by the Statute. Wherefore, the same fails to charge any crime under the Statute.

(c). No person can be twice put in jeopardy. This Constitutional guaranty was violated, in that the First Count for alleged conspiracy charged certain publications as the overt acts which are necessary to the completion of the defense. It next charged in separate counts the same publications, as distinct offenses.

That the salutary Constitutional provision above, can not be nullified by this device, of first charging a conspiracy, and then the same act as substantive offenses in themselves.

(d). None of said Articles are criminal. They are all proper, comments upon important public events; on subjects of great public

interest, and are permissible even though some of the conclusions of the writer may be unfounded.

125 (e). If any of the publications are criminal, then each publication is a separate offense, and can not be combined with others in the Counts charging the substantive offense.

Tenth. The punishment is cruel, unusual, and excessive, being ten years' imprisonment on each Count, and as example, one article is simply a publication of a short letter of a subscriber, expressing approval of the paper, renewing his subscription, and asking that two back numbers be sent.

Which points to be relied on, are substantially those appearing by the Record proper, set forth in the Assignment of Errors, but in a somewhat different form.

Plaintiff in Error.

Parts of the Record to be Printed.

Under the provisions of Rule 10, paragraph 9, the Clerk will please print the following parts of the Record, and render to the Plaintiff in Error an estimate of the probable cost.

All of the Record and transcript, as sent up, omitting therefrom the following:

1. Omit all of the entries and proceedings calling in Judge Frank A. Youmans to hear the Cause, stating in lieu thereof, "It is agreed by Plaintiff in Error that said Judge of the United States District Court for the Western District of Arkansas was legally and regularly selected by Judge Sanborne, the Presiding Judge of the Eighth Circuit, to hear and try the Cause."

2. Omit from the printing the Plea in Abatement, and all Entries relating thereto, there being no Bill of Exceptions preserving the Evidence.

126 3. In printing the Indictment, omit from the First Count all of the Articles charged as the overt acts, and state in substance: "Here are set forth accurately all of the publications afterwards set forth as printed, in the Second and subsequent Counts of the Indictment.

Respectfully,

JACOB FROHWERK,

Plaintiff in Error.

127 [Endorsed:] 685-8. 26771. No. 685. In the Supreme Court of the United States. Jacob Frohwerk, Plaintiff in Error, vs. The United States, Defendant in Error. Designation of Points Relied on, and Parts of the Record to Print. Jacob Frohwerk, Plaintiff in Error Per se.

128 [Endorsed:] File No. 26,771. Supreme Court U. S. October Term, 1918. Term No. 685. Jacob Frohwerk, Plain-

tiff in Error, vs. The United States. Statement of points relied on & designation by plaintiff in error of parts of record to be printed. Filed October 5, 1918.

129 In the Supreme Court of the United States.

No. 685.

JACOB FROHWERK, Plaintiff in Error,

vs.

UNITED STATES, Defendant in Error.

To the Honorable Attorney General, Thomas W. Gregory, and Solicitor General of the United States:

You are hereby notified that in the above entitled cause, the plaintiff in error has caused to be filed with the Clerk of the Supreme Court, the points on which he intends to rely, and the parts of the record which he thinks necessary for the consideration thereof, a copy of which is hereto attached, and begs leave to request that you sign and cause to be left with the Clerk one copy of this Notice. I will have regular counsel to enter appearance in a few days, and will extend any courtesy in the cause.

Very respectfully,

JACOB FROHMAN,
Plaintiff in Error.

October 9, 1918.

Service of a copy of the foregoing is hereby admitted this 9th day of October, 1918.

For the Solicitor General:

W. J. HUGHES, *Attorney.*

130-36 [Endorsed:] No. 685. In the Supreme Court of the United States. Jacob Frohwerk, Plaintiff in Error vs. the United States, Defendant in Error. Notice. Copy. Jacob Frohwerk, Plaintiff in Error, Per Se.

* * * * *

137 [Endorsed:] File No. 26,771. Supreme Court U. S., October Term, 1918. Term No. 685. Jacob Frohwerk, Plff. in Error, vs. The United States. Notice and proof of service of statement of points to be relied upon and designation by plaintiff in error of parts of record to be printed. Filed October 10, 1918.

138

Department of Justice,
Office of the Solicitor General.
Washington, D. C.

W.J.H.-W.M.S.

November 2, 1918.

James D. Maher, Esq., Clerk Supreme Court U. S., Washington,
D. C.

SIR: In the case of Frohwerk v. United States, No. 685, in addition to the statement of points upon which the plaintiff in error intends to rely and the parts of the record designated by him on October 5, 1918, to be printed, the defendant in error desires that the first count of the indictment, in which are set out a series of articles in a German language newspaper, shall be printed in full as they appear in the record.

For the Solicitor General:

Respectfully,

W. J. HUGHES, *Attorney.*

139 Endorsed: File No. 26,771. Supreme Court U. S., October term, 1918. Term No. 685. Jacob Frohwerk, Plff. in Error, vs. The United States. Designation by defendant in error of additional parts of record to be printed. Filed November 4, 1918.

Endorsed on cover: File No. 26,771. W. Missouri D. C. U. S. Term No. 685. Jacob Frohwerk, plaintiff in error, vs. The United States of America. Filed September 27th, 1918. File No. 26,771.